# FEDERAL REGISTER

VOLUME 7 NUMBER 69

*Washington, Thursday, April 9, 1942*


## *The President*

### PROCLAMATION 2547

### "I AM AN AMERICAN" DAY, 1942

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

WHEREAS Public Resolution No. 67, approved May 3, 1940 (54 Stat. 178), provides in part:

That the third Sunday in May each year be, and hereby is, set aside as Citizenship Day and that the President of the United States is hereby authorized and requested to issue annually a proclamation setting aside that day as a public occasion for the recognition of all who, by coming of age or naturalization, have attained the status of citizenship, and the day shall be designated as "I Am An American Day".

That the civil and educational authorities of States, counties, cities, and towns be, and they are hereby, urged to make plans for the proper observance of this day and for the full instruction of future citizens in their responsibilities and opportunities as citizens of the United States and of the States and localities in which they reside; and

WHEREAS it is even more essential in time of war than in time of peace that a people should fully understand the form and genius of their Government and the responsibilities of citizenship:

NOW, THEREFORE, I, FRANKLIN D. ROOSEVELT, President of the United States of America, do hereby designate Sunday, May 17, 1942, as "I Am An American" Day; I urge that the day be set aside as a public occasion for the recognition of all our citizens who have attained their majority or who have been naturalized during the past year; and I call upon Federal, State, and local officials and patriotic, civic, and educational organizations to take part on that day in exercises designed to impress upon all our citizens, both native-born and naturalized, the duties and opportunities of citizenship and its special responsibilities in a nation at war.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the United States of America to be affixed.

DONE at the City of Washington this 7th day of April, in the year of our Lord nineteen hundred and forty-two, [SEAL] and of the Independence of the United States of America the one hundred and sixty-sixth.

FRANKLIN D ROOSEVELT

By the President:

SUMNER WELLES,
*Acting Secretary of State.*

[F. R.-Doc. 42-3128; Filed, April 8, 1942; 12:06 p. m.]

### PROCLAMATION 2548

### MOTHER'S DAY

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

WHEREAS Public Resolution 25, 63d Congress, approved by President Wilson on May 8, 1914, attests that "the service rendered the United States by the American mother is the greatest source of the country's strength and inspiration", that "we honor ourselves and the mothers of America when we do anything to give emphasis to the home as the fountain head of the State", and that "the American mother is doing so much for the home, the moral uplift and religion, hence so much for good government and humanity"; and

WHEREAS the said resolution provides that the second Sunday in May shall be designated as Mother's Day and that it shall be the duty of the President of the United States to request the observance of the day;

NOW, THEREFORE, I, FRANKLIN D. ROOSEVELT, President of the United States of America, do hereby direct the officials of the Government to display the flag on all Government buildings on Mother's Day, May 10, 1942, and I call upon the people of the United States to express the love and reverence which we

CONTENTS

THE PRESIDENT



RULES, REGULATIONS, ORDERS



(Continued on next page)

FEDERAL REGISTER

Published daily, except Sundays, Mondays, and days following legal holidays by the Division of the Federal Register, The National Archives, pursuant to the authority contained in the Federal Register Act, approved July 26, 1935 (49 Stat. 500), under regulations prescribed by the Administrative Committee, approved by the President.

The Administrative Committee consists of the Archivist or Acting Archivist, an officer of the Department of Justice designated by the Attorney General, and the Public Printer or Acting Public Printer.

The daily issue of the FEDERAL REGISTER will be furnished by mail to subscribers, free of postage, for $1.25 per month or $12.50 per year, payable in advance. Remit money order payable to the Superintendent of Documents directly to the Government Printing Office, Washington, D. C. The charge for single copies (minimum, 10¢) varies in proportion to the size of the issue.

CONTENTS—Continued



NOTICES



CONTENTS—Continued



feel for the mothers of our country by the customary display of the flag at our homes and other suitable places and by tokens and messages of affection.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the United States of America to be affixed.

DONE at the City of Washington this 7th day of April, in the year of our Lord nineteen hundred and forty-
[SEAL] two, and of the Independence of the United States of America the one hundred and sixty-sixth.

FRANKLIN D ROOSEVELT

By the President:

SUMNER WELLES,
*Acting Secretary of State.*

[F. R. Doc. 42-3129; Filed, April 8, 1942; 12:07 p. m.]

## EXECUTIVE ORDER 9123

AUTHORIZING THE PROCUREMENT DIVISION TO USE QUARTZ CRYSTALS ACQUIRED PURSUANT TO THE ACT OF JUNE 7, 1939

WHEREAS the Procurement Division of the Treasury Department has acquired by purchase stocks of quartz crystals pursuant to the provisions of the act of June 7, 1939 (53 Stat. 811); and

WHEREAS the Chairman of the War Production Board has reported to me that a shortage of industrial stocks of quartz crystals suitable for piezo-electric use is imminent; and

WHEREAS the United States is now at war:

NOW, THEREFORE, by virtue of the authority vested in me as President of the United States by section 4 of the said act of June 7, 1939, it is ordered as follows:

The Procurement Division of the Treasury Department is hereby authorized and directed to make use of such quartz crystals suitable for piezo-electric use by sale or other disposition for war production purposes to such buyers or users and in such amounts as may be requested from time to time by the Chairman of the War Production Board.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
*April 7, 1942.*

[F. R. Doc. 42-3124; Filed, April 8, 1942; 11:44 a. m.]

## EXECUTIVE ORDER 9124

TRANSFER OF LANDS FROM THE CACHE NATIONAL FOREST TO THE CARIBOU NATIONAL FOREST

IDAHO AND UTAH

By virtue of the authority vested in me by the act of Congress approved June 4, 1897, 30 Stat. 11, 36 (U.S.C., title 16, sec. 473), and upon the recommendation of the Secretary of Agriculture, it is ordered that the following-described national-forest lands, in the States of Idaho and Utah, be and they are hereby, transferred from the Cache National Forest to the Caribou National Forest:

All lands of the Malad Division of the Cache National Forest, situated within townships 11, 12, 13, 14, 15 and 16 south, ranges 35, 36, 37 and 38 east of the Boise Meridian, Idaho, and within townships 14 and 15 north, ranges 2 and 3 west of the Salt Lake Meridian, Utah, as fixed and defined by Proclamation No. 1397, dated October 9, 1917.

It is not intended by this order to give a national-forest status to any publicly-owned lands which have not heretofore had such status, or to remove any publicly-owned lands from a national-forest status.

This order shall become effective July 1, 1942.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
*April 7, 1942.*

[F. R. Doc. 42-3125; Filed, April 8, 1942; 11:44 a. m.]

## *Rules, Regulations, Orders*

## TITLE 6—AGRICULTURAL CREDIT

### Chapter I—Farm Credit Administration

### PART 27—THE FEDERAL LAND BANK OF ST. PAUL

FEES

Sections 27.1, 27.2, 27.3, and 27.5 of Title 6, Code of Federal Regulations, are amended to read as follows:

§ 27.1 *Fees for appraisal.* The following fees for appraisal are hereby established with respect to Federal Land Bank loans through national farm loan associations, Land Bank Commissioner loans, and direct loans by the Federal Land Bank, and shall be paid at the time the application for loan is submitted: Where the loan applied for is in the amount of $10,000.00, or less, the fee shall be ten

dollars ($10.00); and where the amount is over $10,000.00, the fee shall be one dollar ($1.00) for each one thousand dollars, or fraction thereof, of the amount applied for.

§ 27.2 *Fees for determination of title.* In addition to the appraisal fee provided for in § 27.1 hereof, there shall be paid, by deduction from the proceeds of the loan, or collected in such other manner as the Bank may elect, a fee for determination of title, in the amount set out below, in connection with each single Federal Land Bank loan or single Land Bank Commissioner loan, or the aggregate amount of each Federal Land Bank loan and Land Bank Commissioner loan, closed jointly:

| Amount of loan closed: | Fee |
|---|---|
| $10,000.00 or less | $5.00 |
| $10,100.00 to $15,000.00 | 10.00 |
| $15,100.00 to $20,000.00 | 20.00 |
| $20,100.00 to $30,000.00 | 30.00 |
| $30,100.00 to $40,000.00 | 40.00 |
| $40,100.00 to $50,000.00 | 50.00 |

§ 27.3 *Fees for determination of title.* Where a direct loan is made by the Federal Land Bank there shall be paid, in addition to the fees set forth in § 27.2 hereof, a fee of ½ of 1 per cent. of the face amount of such loan, with a minimum fee of $15.00, and the amount of such fee shall be deducted from the proceeds of such loan, or collected in such other manner as the Bank may elect.

§ 27.5 *Fees for re-appraisal.* A fee in the following amount, payable in advance, is required for each subsequent appraisal in connection with an application for a loan whenever such appraisal is made at the applicant's request: Where the loan applied for is in the amount of $10,000.00, or less, the fee shall be ten dollars ($10.00); and where the amount is over $10,000.00, the fee shall be one dollar ($1.00) for each one thousand dollars, or fraction thereof, of the amount applied for.

(Sec. 13 "Ninth", 39 Stat. 372, sec. 26, 48 Stat. 44, sec. 32, 48 Stat. 48, as amended; 12 U.S.C. 781 "Ninth", 723 (e), 1016 (e) and Sup.; 6 CFR 19.4019; Res. Bd. Dir., March 17, 1942)

[SEAL] THE FEDERAL LAND BANK OF SAINT PAUL,
By F. W. PECK, *President.*

[F. R. Doc. 42-3122; Filed, April 8, 1942; 11:43 a. m.]

---

## TITLE 7—AGRICULTURE

### Chapter IX—Agricultural Marketing Administration

### PART 910—FRESH PEAS AND CAULIFLOWER GROWN IN THE COUNTIES OF ALAMOSA, RIO GRANDE, CONEJOS, COSTILLA, AND SAGUACHE IN THE STATE OF COLORADO

### ORDER, AS AMENDED, REGULATING THE HANDLING OF FRESH PEAS AND CAULIFLOWER GROWN IN THE COUNTIES OF ALAMOSA, RIO GRANDE, CONEJOS, COSTILLA, AND SAGUACHE IN THE STATE OF COLORADO

Sec.



The Secretary of Agriculture of the United States (hereinafter referred to as the "Secretary"), acting pursuant to the provisions of Public Act No. 10, 73d Congress (May 12, 1933), as amended, executed a marketing agreement and issued an order on August 4, 1936, effective on and after August 9, 1936, regulating the handling of fresh peas and cauliflower grown in the counties of Alamosa, Rio Grande, Conejos, Costilla, Custer, and Eagle in the State of Colorado. The aforesaid Public Act No. 10, 73d Congress, as amended, has been reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended. It is provided in Public Act No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (hereinafter referred to as the "act"), that the Secretary shall subject to the provisions of the act, issue orders regulating such handling of certain agricultural commodities, including fresh peas and cauliflower, as is in the current of interstate or foreign commerce, or which directly burdens, obstructs, or affects interstate or foreign commerce in such commodities.

The Control Committee, established pursuant to the provisions of the aforesaid marketing agreement and order regulating the handling of fresh peas and cauliflower grown in the counties of Alamosa, Rio Grande, Conejos, Costilla, Custer, and Eagle in the State of Colorado, effective on and after August 9, 1936, submitted to the Secretary certain proposed amendments to the aforesaid marketing agreement and order and requested that a hearing be held by the Secretary on said proposed amendments. The Secretary, having reason to believe that the aforesaid marketing agreement and order should be amended, gave notice of a public hearing to be held in Alamosa, Colorado, on March 24, 1941, in accordance with the applicable provisions of the aforesaid act, and at said time and place the public hearing was conducted and all interested parties were afforded an opportunity to be heard.

In accordance with the provisions of the act, it has been found and proclaimed that the purchasing power of fresh peas and cauliflower, respectively, grown in the counties of Alamosa, Rio Grande, Conejos, Costilla, and Saguache in the State of Colorado, during the prewar base period, August 1909–July 1914, cannot be satisfactorily determined from available statistics of the Department of Agriculture, but that the purchasing power of such peas can be satisfactorily determined from available statistics of the Department of Agriculture for the post-war base period 1922–28, and that the purchasing power of such cauliflower can be satisfactorily determined from the available statistics of the Department of Agriculture for the post-war base period 1923–28; and the post-war period 1922–28 is the base period, to be used in connection with this order, as amended, in determining the purchasing power of such peas, and the post-war period 1923–28 is the base period to be used, in connection with this order, as amended, in determining the purchasing power of such cauliflower.

Upon the basis of the evidence introduced at the aforesaid hearing in Alamosa, Colorado, on March 24, 1941, and the record thereof, it is hereby found that:

AUTHORITY: §§ 910.1 to 910.18, inclusive, issued under the authority contained in 48 Stat. 31, 670, 675, 49 Stat. 750, 50 Stat. 246, 52 Stat. 215, 53 Stat. 782; 7 U.S.C. 1940 ed. 601 *et seq.*

§ 910.1 *Findings.* (a) The aforesaid order, as hereby amended, and all of the terms and conditions of said order, as hereby amended, will tend to effectuate the declared policy of the act with respect to fresh peas and cauliflower grown in the counties of Alamosa, Rio Grande, Conejos, Costilla, and Saguache in the State of Colorado; and

(b) the aforesaid order, as hereby amended, is limited in its application to the smallest regional production area that is practicable, consistently with carrying out the declared policy of the act, and the issuance of several orders applicable to any subdivision of said production area specified herein would not effectively carry out the declared policy of the act.

The foregoing findings are supplementary and in addition to the findings that were made in connection with the issuance of the aforesaid order on August 4, 1936, effective on and after August 9, 1936, and such findings previously made are hereby ratified and affirmed except insofar as such previous findings may be in conflict with the findings herein set forth.

It is further found:

(c) the agreement, drafted subsequent to, and upon the basis of the evidence adduced at, the aforesaid hearing in Alamosa, Colorado, on March 24, 1941, amending the aforesaid marketing agreement was executed by handlers (excluding co-operative associations of producers who are not engaged in processing, distributing or shipping either of the commodities covered by this order) who handled not less than fifty (50) percent of the volume of each of the commodities, covered by the aforesaid order, as hereby amended, produced in the counties of Alamosa, Rio Grande, Conejos, Costilla, and Saguache in the State of Colorado;

(d) the aforesaid agreement, drafted subsequent to, and upon the basis of the evidence adduced at, the aforesaid hearing in Alamosa, Colorado, on March 24, 1941, amending the aforesaid marketing agreement, has been executed by handlers, signatory to said marketing agree-

ment, who, during the preceding calendar year, handled not less than sixty-seven (67) percent of the peas and cauliflower, respectively, handled by all handlers, during the preceding crop year, signatory to said marketing agreement;

(e) the issuance of this order, amending the aforesaid order, issued on August 4, 1936, effective on and after August 9, 1936, is favored and approved by producers of peas and by producers of cauliflower who participated in the referendum, conducted by the Acting Secretary, and who, during the representative period determined by the Acting Secretary, produced for market, within the production area specified in said order, as hereby amended, at least two-thirds (⅔) of the volume of such peas and cauliflower, respectively, produced for market within such area;

(f) the issuance of this order, amending the aforesaid order, issued on August 4, 1936, effective on and after August 9, 1936, is favored and approved by at least two-thirds (⅔) of the producers of peas and by at least two-thirds (⅔) of the producers of cauliflower who participated in the referendum, conducted by the Acting Secretary, and who, during the representative period determined by the Acting Secretary, were engaged, within the production area specified in said order, as hereby amended, in the production for market of either or both of the commodities specified herein; and

(g) this order, as hereby amended, regulates the handling of such fresh peas and cauliflower in the same manner as the marketing agreement, as amended by the aforesaid agreement drafted subsequent to, and upon the basis of the evidence adduced at, the aforesaid hearing in Alamosa, Colorado, on March 24, 1941, regulates the handling of such peas and cauliflower, and this order, as hereby amended, is made applicable only to persons in the respective classes of industrial and commercial activities specified in the aforesaid marketing agreement, as amended.

§ 910.2 *Order relative to handling.* It is, therefore, ordered, pursuant to the findings and determinations set forth in § 910.1 and pursuant to the aforesaid act, that such handling of fresh peas and cauliflower grown in the counties of Alamosa, Rio Grande, Conejos, Costilla, and Saguache in the State of Colorado as is in the current of interstate commerce or commerce with Canada, or as directly burdens, obstructs or affects such commerce, shall, from and after the time hereinafter specified, be in conformity to and in compliance with the terms and conditions hereof, and the aforesaid order, issued on March 4, 1936, effective on and after March 9, 1936, is hereby amended, from and after the time hereinafter specified, to read as follows:

§ 910.3 *Definitions.* As used herein, the following terms have the following meanings:

(a) "Secretary" means the Secretary of Agriculture of the United States of America, or the Under Secretary of Agriculture of the United States, or the Assistant Secretary of Agriculture of the United States.

(b) "Act" means Public Act No. 10, 73d Congress (May 12, 1933), as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937 (50 Stat. 246 (1937), 7 U.S.C. 1940 ed. 601 *et seq.*), as amended.

(c) "Person" means an individual, partnership, corporation, association, legal representative, or any organized group of individuals.

(d) "Peas" means all varieties of peas, for sale for consumption in fresh form, grown in the counties of Alamosa, Rio Grande, Conejos, Costilla, and Saguache in the State of Colorado.

(e) "Cauliflower" means all varieties of cauliflower, for sale for consumption in fresh form, grown in the counties of Alamosa, Rio Grande, Conejos, Costilla, and Saguache in the State of Colorado.

(f) "Producer" means any person engaged in growing peas or cauliflower for market.

(g) "Handler" means any person (except a common carrier of peas and cauliflower owned by another person) who, as owner, agent, or otherwise, first ships peas or cauliflower, or first causes peas or cauliflower to be shipped, in fresh form by rail, truck or any other means whatsoever.

(h) "Handle" means to transport, offer for transportation, sell, or ship peas or cauliflower in the current of interstate commerce or commerce with Canada, or so as directly to burden, obstruct, or affect such commerce.

(i) "Fiscal year" means the twelve-month period beginning June 1 of any year and ending May 31 of the following year, both dates inclusive.

§ 910.4 *Administrative committee—* (a) *Establishment and membership.* An Administrative Committee, consisting of twelve members, is hereby established. Four members of said committee shall represent pea producers; four members of said committee shall represent cauliflower producers; and four members of said committee shall represent handlers. For each member of the Administrative Committee there shall be an alternate member who shall be selected in the same manner and shall have the same qualifications as the member for whom such person serves as alternate. The members representing the producers of peas shall be selected from the following districts: One member shall be a producer of peas in the district consisting of Rio Grande and Saguache Counties; one member shall be a producer of peas in the district consisting of Conejos County; one member shall be a producer of peas in the district consisting of Costilla and Alamosa Counties; and one member shall be a producer of peas and shall be selected from the district consisting of all of the aforesaid counties, viz., Alamosa, Rio Grande, Conejos, Costilla, and Saguache Counties. The members representing the producers of cauliflower shall be selected from the following districts: One member shall be a producer of cauliflower in the district consisting of Conejos County; one member shall be a producer of cauliflower in the district consisting of Rio Grande, Saguache, and Alamosa Counties; one member shall be a producer of cauliflower in the district consisting of that portion of Costilla County lying north of the east-west township line dividing township 31 south and township 32 south (such line being approximately six miles north of the village of San Acacio, Colorado); and one member shall be a producer of cauliflower in the district consisting of that portion of Costilla County lying south of the aforesaid east-west township line dividing township 31 south and township 32 south. The Control Committee, established pursuant to the provisions of the marketing agreement and order regulating the handling of fresh peas and cauliflower grown in the counties of Alamosa, Rio Grande, Conejos, Costilla, Custer, and Eagle in the State of Colorado, effective on and after August 9, 1936, shall continue to function, for the purposes stated in § 910.4 (b) and § 910.4 (c), until the initial members of the Administrative Committee, established pursuant to the provisions hereof, have been selected and have qualified.

(b) *Nomination and selection of producer members.* There shall be held, within twenty days after the effective date hereof, a general meeting of all producers, at such time and place as may be designated by the aforesaid Control Committee established pursuant to said marketing agreement and order effective on and after August 9, 1936; and at such general meeting of producers the nominees shall be designated, in accordance with the provisions set forth herein, and the Secretary shall select, from among the nominees thus designated, the members and alternates of the Administrative Committee to represent producers for the fiscal year beginning on June 1, 1941. There shall be held, on or before May 15 of each year subsequent to the year 1941, a general meeting of producers, at such time and place as may be specified by the Administrative Committee; and at such meeting of producers the nominees shall be designated, in accordance with the provisions hereof, and the Secretary shall select, from among the nominees thus designated, the members and alternates of the Administrative Committee to represent producers for the respective fiscal year. At each of such meetings, the producers eligible to participate therein shall select a chairman and a secretary; and thereupon such producers shall designate the nominees to represent, by districts as aforesaid, the producers of peas and cauliflower, respectively. Each producer of cauliflower who is present at said general meeting shall be entitled to cast one vote, and only one vote, on behalf of himself, his agents, partners, and representatives in designating each nominee for each of the aforesaid districts to represent the producers of cauliflower. Each producer of peas who is present at said general meeting shall be entitled to cast one vote, and only one vote, on behalf of himself, his agents, partners, and rep-

resentatives in designating each nominee for each of the aforesaid districts to represent the producers of peas. Producers shall designate two nominees for each producer member of the Administrative Committee from each of the aforesaid districts, and two nominees for each alternate from each district; and the Secretary shall select, from among the nominees designated by the producers, one producer member and his respective alternate for each of the said districts. Only producers who are present at said general meeting may participate in designating nominees. No producer shall be allowed to vote by proxy. The chairman of each meeting shall announce at the respective meeting the name of each person for whom a vote has been cast, whether as member or as alternate, and the number of votes cast for each such person; and the chairman or the secretary of said general meeting shall forthwith transmit such information to the Secretary. Each member of the Administrative Committee, selected as aforesaid by the Secretary to represent the producers of peas, shall be a producer of peas in the district which he represents on said committee; and each member of the Administrative Committee, selected as aforesaid by the Secretary to represent the producers of cauliflower, shall be a producer of cauliflower in the district which he represents on said committee. No person engaged in handling peas or cauliflower, other than peas or cauliflower of his own production, shall be eligible to serve as a producer member of the Administrative Commitee.

(c) *Nomination and selection of handler members.* There shall be held, within twenty days after the effective date hereof, a general meeting of all handlers, at such time and place as may be designated by the aforesaid Control Committee established pursuant to said marketing agreement and order effective on and after August 9, 1936; and at such general meeting of handlers the nominee shall be designated, in accordance with the provisions set forth herein, and the Secretary shall select, from among the nominees thus designated, the members and alternates of the Administrative Committee to represent handlers for the fiscal year beginning on June 1, 1941. There shall be held, on or before May 15 of each year subsequent to the year 1941, a general meeting of handlers, at such time and place as may be specified by the Administrative Committee; and at such meeting of handlers the nominees shall be designated, in accordance with the provisions hereof, and the Secretary shall select, from among the nominees thus designated, the members and alternates of the Administrative Committee to represent handlers for the respective fiscal year. At each of such meetings the handlers eligible to participate therein shall select a chairman and a secretary; and thereupon such handlers shall designate eight nominees for membership on the Administrative Committee and eight nominees for alternate membership on the Administrative Committee to represent the handlers. The Secretary shall select, from among the nominees designated by the handlers, four members of the Administrative Committee and their respective alternates. Each handler present at said general meeting shall be entitled to cast one vote, and only one vote, on behalf of himself, his agents, partners, affiliates, subsidiaries, and representatives in designating each nominee. Only handlers who are present at said general meeting may participate in designating nominees. No handler shall be allowed to vote by proxy. The chairman of each such meeting shall announce at the respective meeting the name of each person for whom a vote has been cast, whether as member or alternate, and the number of votes cast for each such person; and the chairman or the secretary of said general meeting shall forthwith transmit such information to the Secretary. Each member of the Administrative Committee, selected as aforesaid by the Secretary to represent handlers, shall be a handler of peas or cauliflower in the counties of Alamosa, Rio Grande, Conejos, Costilla, or Saguache in the State of Colorado, and each such person thus selected shall be a resident within the aforesaid area.

(d) *Failure to nominate.* In the event nominations are not made by producers pursuant to, and within the time specified in, this section, the Secretary may select, without regard to nominations and without waiting for any nomination to be made, the members and alternate members of the Administrative Committee to represent producers. In the event nominations are not made by handlers pursuant to, and within the time specified in, this section, the Secretary may select, without regard to nominations and without waiting for any nomination to be made, the members and alternate members of the Administrative Committee to represent handlers.

(e) *Acceptance.* Any person selected by the Secretary as a member or as an alternate member of the Administrative committee shall qualify, within fifteen days after being notified of such selection, by filing with the Secretary a written acceptance of such appointment.

(f) *Term of office.* The initial members and alternates of the Administrative Committee shall hold office for a term beginning on the date designated by the Secretary and ending on May 31, 1942: *Provided,* That such members and alternates shall serve until their respective successors have been selected and have qualified. For each year subsequent to the fiscal year ending on May 31, 1942, the term of office of the members and alternates of the Administrative Committee shall begin on the first day of June and shall continue for the respective fiscal year: *Provided,* That said members and alternates shall serve until their respective successors have been selected and have qualified.

(g) *Duties of alternate members.* The alternate for a member of the Administrative Committee shall, in the event of such member's absence, act in the place and stead of such member; and in the event of such member's removal, resignation, disqualification, or death, the alternate for said member shall, until a successor for the unexpired term of said member has been selected, act in the place and stead of said member.

(h) *Vacancies.* To fill any vacancy occasioned by the failure of any person selected as a member or as an alternate member of the Administrative Committee to qualify, or in the event of the death, removal, resignation, or disqualification of any qualified member or alternate member of the Administrative Committee, a successor for his unexpired term shall be selected by the Secretary from nominations made in the manner heretofore specified in this section. If nominations to fill such vacancy are not made and the names of such nominees submitted to the Secretary within twenty days after such vacation occurs, the Secretary may, without waiting for such nominees to be designated or the names thereof submitted, select someone to fill such vacancy.

(i) *Compensation and expenses.* The members of the Administrative Committee, and their respective alternates when acting as members, shall serve without compensation, but they shall be reimbursed for expenses necessarily incurred by them in the performance of their duties and in the exercise of their powers hereunder.

(j) *Powers.* The Administrative Committee shall have the following powers:

(1) To administer, as herein provided, the terms and provisions hereof;

(2) To make rules and regulations to effectuate the terms and provisions hereof;

(3) To receive, investigate, and report to the Secretary complaints of violations hereof; and

(4) To recommend to the Secretary amendments hereto.

(k) *Duties.* It shall be the duty of the Administrative Committee:

(1) To act as intermediary between the Secretary and any producer or handler;

(2) To keep minutes, books, and records which will clearly reflect all of the acts and transactions of the committee, and such minutes, books, and records shall be subject at any time to examination by the Secretary;

(3) To investigate the growing, shipping, and marketing conditions with respect to peas and cauliflower, and to assemble data in connection therewith;

(4) To furnish to the Secretary such available information as the Secretary may request;

(5) To perform such duties as may be assigned to it from time to time by the Secretary in connection with the administration of Section 32 of the Act to Amend the Agricultural Adjustment Act, and for other purposes, Public Act No. 320, 74th Congress (August 24, 1935), as amended;

(6) To cause the books of the Administrative Committee to be audited by one or more competent accountants at least once each fiscal year and at such other times as the committee may deem necessary or as the Secretary may request, and to file with the Secretary a copy of each such report;

(7) To appoint such employees as it may deem necessary and to determine the salaries and define the duties of such employees;

(8) To give to the Secretary the same notice of meetings of the Administrative Committee as is given to the members of the committee;

(9) To select a chairman of the Administrative Committee and, from time to time, such other officers as it may deem advisable;

(10) To determine, each season prior to making any recommendation to the Secretary for a regulation of shipments of peas or cauliflower, the marketing policy to be followed during the ensuing season and to submit a report of such policy to the Secretary; and said policy report shall contain, among other provisions, information relative to the estimated total production or shipments of the applicable commodity; information as to the expected general quality and size of the applicable commodity; possible or expected demand conditions of different market outlets; supplies of competitive commodities; such analysis of the foregoing factors and conditions as the committee deems appropriate; and the type of regulations of shipments of the applicable commodity expected to be recommended.

(l) *Procedure.* (1) Any five members of the Administrative Committee representing handlers or representing producers of cauliflower shall constitute a quorum of said committee in so far as regulating the handling of cauliflower may be concerned pursuant to § 910.7 or § 910.8 hereof; and any decision of the Administrative Committee, with respect to cauliflower or the handling of cauliflower pursuant to § 910.7 or § 910.8 hereof, shall require five concurring votes by committee members. Any five members of the Administrative Committee representing handlers or representing producers of peas shall constitute a quorum of said committee in so far as regulating the handling of peas may be concerned pursuant to § 910.7 or § 910.8 hereof; and any decision of the Administrative Committee, with respect to peas or the handling of peas pursuant to § 910.7 or § 910.8 hereof shall require five concurring votes by committee members. Any seven members of the Administrative Committee representing handlers or representing producers shall, with regard to any action by the committee under any section hereof other than § 910.7 or § 910.8, constitute a quorum of said committee; and any decision of the Administrative Committee, pursuant to any of the provisions hereof other than § 910.7 or § 910.8, shall require seven concurring votes by the members of said committee.

(2) The Administrative Committee may provide for the members thereof to vote, with regard to committee action, by mail, telegraph, or telephone; and any such vote cast by telephone shall be confirmed promptly in writing by each member thus voting by telephone.

(m) *Funds and other property.* (1) All funds received by the Administrative Committee pursuant to any of the provisions hereof shall be used solely for the purposes herein specified, and the Secretary may require the committee and its members to account for all receipts and disbursements.

(2) Upon the death, resignation, removal, or expiration of the term of office of any member of the Administrative Committee, all books, records, funds and other property in his possession shall be delivered to his successor in office or to the committee, and such assignments and other instruments shall be executed as may be necessary to vest in his successor or in the committee full right to all the books, records, funds, and other property in the possession or under the control of such member pursuant hereto.

§ 910.5 *Right of the Secretary.* The members of the Administrative Committee (including successors and alternates) and any agent or employee appointed or employed by said committee shall be subject to removal or suspension at any time by the Secretary. Each and every order, regulation, decision, determination, or other act of the committee shall be subject to the continuing right of the Secretary to disapprove of the same at any time; and upon such disapproval, the action of said committee thus disapproved shall be deemed null and void except as to acts done in reliance thereon or in compliance therewith prior to such disapproval by the Secretary.

§ 910.6 *Expenses and assessments.* (a) *Expenses.* The Administrative Committee is authorized to incur such expenses as the Secretary finds may be necessary to carry out its functions hereunder during each fiscal year. The funds to cover such expenses shall be acquired by the levying of assessments as provided hereinafter.

(b) *Assessments.* Each handler shall pay to the Administrative Committee, upon demand, such handler's pro rata share of the expenses that the Secretary finds will be necessarily incurred by the committee for the maintenance and functioning of the committee during each fiscal year. Each handler's pro rata share shall be based upon a rate of assessment fixed by the Secretary and shall be that proportion of such expenses which the total quantity of peas or cauliflower, respectively, shipped by such handler during the fiscal year is of the total quantity of peas or cauliflower, respectively, shipped by all handlers during such shipping season. The rate of assessment may be increased or decreased, during or after a fiscal year, by the Secretary in order to cover any later finding of the Secretary of the estimated expenses or the actual expenses of the committee during said fiscal year.

(c) *Handler accounts.* (1) At the end of each fiscal year the Administrative Committee shall credit each handler with any amount paid by such handler in excess of his pro rata share of the expenses or shall debit such handler with the amount by which his pro rata share exceeds the amount paid by him. Any such debits shall become due and payable upon demand of the committee.

(2) The Administrative Committee may, with the approval of the Secretary, maintain a suit in its own name or in the names of its members for the collection of any handler's pro rata share of expenses.

§ 910.7 *Regulation of shipments by grades and sizes.*—(a) *Recommendation of the Administrative Committee.* Whenever the Administrative Committee deems it advisable to regulate the shipment of peas or cauliflower by grades or sizes, or combinations thereof, during any specified period or periods, in order to effectuate the declared policy of the act, it shall so recommend to the Secretary. At the time of submitting any such recommendation, the committee shall furnish the Secretary the pertinent data and information upon which it acted in making such recommendation, and such other data and information as the Secretary may request. The committee shall promptly give adequate notice to handlers and producers of any such recommendation submitted by it to the Secretary.

(b) *Regulation of shipments.* Whenever the Secretary finds, from the recommendation and information submitted by the Administrative Committee or from other available information, that to limit the shipment of peas or cauliflower to particular grades or sizes, or combinations thereof, would tend to effectuate the declared policy of the act, he shall so limit the shipment of such peas or cauliflower during a specified period or periods. The Secretary shall immediately notify the committee of the issuance of such regulation, and the committee shall promptly give adequate notice thereof to the handlers and producers.

(c) *Exemption certificates.* (1) Before the institution of any limitation of shipments pursuant to this section, the Administrative Committee shall adopt and announce the procedural rules by which exemption certificates will be issued to producers. Whenever the committee recommends to the Secretary a regulation of shipments pursuant to this section, the committee shall determine the percentage which the quantity of grades and sizes of peas or cauliflower permitted to be shipped under such regulation bears to the total quantity which could be shipped in the absence of such regulation, and the committee shall forthwith announce this percentage. An exemption certificate shall thereafter be issued to any producer who furnishes proof satisfactory to the committee that he will be prevented, because of the regulation established, from shipping as large a percentage of his peas or cauliflower as the average percentage for all producers, as determined by the committee. Such exemption certificate shall permit the producer to ship or cause to be shipped that quantity of the regulated grades and sizes of peas or cauliflower as will enable him to ship or cause to be shipped as large a percentage of his peas or cauliflower as the average percentage for all producers.

(2) The Administrative Committee may authorize an employee or employees to receive applications for exemption cer-

tificates, make the necessary investigation with regard to whether an exemption certificate should be issued and, if so, the quantity of peas or cauliflower which should be thus exempted, and issue for and on behalf of the committee an exemption certificate: *Provided, however,* That the committee shall not authorize an employee or employees to perform any of the following duties or functions: (i) Determine the grades or sizes of peas or cauliflower which could be shipped in the absence of any regulation, or (ii) determine the percentage that the quantity of peas or cauliflower permitted to be shipped pursuant to regulation is of the quantity which could have been shipped in the absence of regulation.

(3) If any producer is dissatisfied with the determination of an employee or employees who have been authorized to issue exemption certificates and who have exercised jurisdiction with regard to the application submitted by the respective producer, such producer may appeal to the Administrative Committee: *Provided,* That such appeal shall be taken promptly after the determination by the respective employee or employees. If any producer is dissatisfied with the determination of the Administrative Committee with respect to an exemption certificate or the application for an exemption certificate, or with regard to an appeal by a producer to said committee from the action of an employee or employees as aforesaid, such producer may appeal to the Secretary: *Provided,* That such appeal shall be taken promptly after the determination by the Administrative Committee. The Secretary may, upon an appeal as aforesaid, modify or cancel the issuance of an exemption certificate or may authorize the issuance of an exemption certificate. The authority of the Secretary to supervise and control the issuance of exemption certificates, including but not being limited to such procedural rules as may be adopted by the committee, is unlimited and plenary; and any determination made by the Secretary with respect to an exemption certificate or the application therefor shall be final. The Administrative Committee shall from time to time submit to the Secretary reports stating in detail the number of exemption certificates issued, the quantity of peas and cauliflower, respectively, thus exempted, and such additional information as may be requested by the Secretary.

(d) *Inspection and certification.* During any period in which shipments of peas are regulated pursuant to this section, each handler shall, prior to making each shipment of peas, cause such shipment to be inspected by an authorized representative of the Federal-State Inspection Service; and promptly thereafter each such handler shall submit or cause to be submitted to the Administrative Committee a copy of the Federal-State inspection certificate showing the grades and sizes of the peas contained in the respective shipment. During any period in which shipments of cauliflower are regulated pursuant to this section, each handler shall, prior to making such shipment of cauliflower, cause such shipment to be inspected by an authorized representative of the Federal-State Inspection Service; and promptly thereafter each such handler shall submit or cause to be submitted to the Administrative Committee a copy of the Federal-State inspection certificate showing the grades and sizes of the cauliflower contained in the respective shipment.

§ 910.8 *Prohibition of loading*—(a) *Recommendation by committee.* Whenever the Administrative Committee deems it advisable, in order to effectuate the declared policy of the act, to prohibit the loading of peas or cauliflower for a period of not to exceed 96 hours it shall so recommend to the Secretary. At the time of submitting such recommendation, the committee shall furnish the Secretary the pertinent data and information upon which it acted in making such recommendation, and such other information as the Secretary may request.

(b) *Establishment of regulations.* Whenever the Secretary finds, from the recommendation and information submitted by the Administrative Committee or from other available information, that to prohibit the loading of peas or cauliflower, respectively, during a period of not to exceed 96 hours would tend to effectuate the declared policy of the act, he shall so prohibit the loading of peas or cauliflower, respectively: *Provided,* That not less than 72 hours shall elapse from the termination of such period to the commencement of a subsequent period during which such loading would be prohibited. The Secretary shall immediately notify the committee of the issuance of such regulation, and the committee shall promptly give adequate notice thereof to producers and handlers.

§ 910.9 *Compliance and exceptions*—(a) *Compliance.* No handler shall ship peas or cauliflower in violation of the provisions of this instrument or in violation of an order issued by the Secretary pursuant to the provisions hereof; and no handler shall load peas or cauliflower during a period, prescribed by the Secretary, when such loading has been prohibited by the Secretary pursuant to the provisions hereof.

(b) *Shipments for relief.* Nothing contained herein shall be construed to authorize any limitation of the right of any handler to ship peas or cauliflower for consumption by charitable institutions or for distribution by relief agencies; and no assessment shall be levied or collected on peas or cauliflower thus shipped for consumption by charitable institutions or for distribution by relief agencies. The Administrative Committee may prescribe adequate safeguards to prevent peas or cauliflower shipped for consumption by charitable institutions or for distribution by relief agencies from entering the commercial channels of trade for peas and cauliflower contrary to the provisions hereof.

§ 910.10 *Reports.* Upon request of the Administrative Committee, made with the approval of the Secretary, each handler shall furnish such committee, in such manner and at such times as it prescribes, such information as will enable the committee to perform its duties hereunder.

§ 910.11 *Effective time and termination*—(a) *Effective time.* The provisions hereof shall become effective at such time as the Secretary may declare above his signature attached hereto, and shall continue in force until terminated in one of the ways hereinafter specified.

(b) *Termination.* (1) The Secretary may, at any time, terminate the provisions hereof by giving at least one day's notice by means of a press release or in any other manner which he may determine.

(2) The Secretary may terminate or suspend the operation of any or all of the provisions hereof whenever he finds that such provisions do not tend to effectuate the declared policy of the act.

(3) The Secretary shall terminate the provisions hereof, with respect to peas, at the end of any fiscal year whenever he finds that such termination is favored by a majority of the producers of peas who, during the then preceding fiscal year, have been engaged in the production for market of peas: *Provided,* That such majority has, during such period, produced for market more than fifty percent of the volume of such peas produced for market; but such termination shall be effective only if announced on or before April 30 of the then current fiscal year. The Secretary shall terminate the provisions hereof, with respect to cauliflower, at the end of any fiscal year whenever he finds that such termination is favored by a majority of the producers of cauliflower who, during the then preceding fiscal year, have been engaged in the production for market of cauliflower: *Provided,* That such majority has, during such period, produced for market more than fifty percent of the volume of such cauliflower produced for market; but such termination shall be effective only if announced on or before April 30 of the then current fiscal year.

(4) The provisions hereof shall, in any event, terminate whenever the provisions of the act authorizing such cease to be in effect.

(c) *Proceedings after termination.* (1) Upon the termination of the provisions hereof, the then functioning members of the Administrative Committee shall continue as trustees, for the purpose of liquidating the affairs of the said committee, of all the funds and property then in the possession of or under control of such committee, including but not being limited to the claims for any funds unpaid or property not delivered at the time of such termination; and the procedural rules governing the activities of said trustees, including but not being limited to the determination as to whether action shall be taken by a majority vote of the trustees, shall be prescribed by the Secretary.

(2) The said trustees shall continue in such capacity until discharged by the Secretary, and shall, from time to time, account for all receipts and disbursements or deliver all property on hand, together with all books and records of the committee and of the trustees, to such person as the Secretary may direct;

and shall, upon the request of the Secretary, execute such assignments or other instruments necessary or appropriate to vest in such person full right to all of the funds, property, and claims vested in the committee or the trustees pursuant hereto.

(3) Any person to whom funds, property, or claims have been transferred or delivered by the Administrative Committee or its members, pursuant to this section, shall be subject to the same obligations imposed upon the members of said committee and upon the said trustees.

§ 910.12 *Effect of termination or amendment.* Unless otherwise expressly provided by the Secretary, the termination hereof or the termination of any regulation issued pursuant hereto, or the issuance of any amendment to either thereof, shall not (a) affect or waive any right, duty, obligation, or liability which shall have arisen or which may thereafter arise in connection with any provision hereof or any regulation issued hereunder, or (b) release or extinguish any violation hereof or any regulation issued hereunder, or (c) affect or impair any right or remedy of the Secretary or of any other person with respect to any such violation. The provisions hereof shall not affect or waive any right, duty, obligation, or liability which may have arisen in connection with any provision of the aforesaid marketing agreement and order regulating the handling of fresh peas and cauliflower grown in the counties of Alamosa, Rio Grande, Conejos, Costilla, Custer, and Eagle in the State of Colorado, effective on and after August 9, 1936, or release or extinguish any violation of said marketing agreement and order or any regulation issued thereunder or affect or impair any right or remedy of the Secretary or of any other person with respect to any such violation.

§ 910.13 *Duration of immunities.* The benefits, privileges, and immunities conferred upon any person by virtue hereof shall cease upon the termination hereof, except with respect to acts done under and during the existence hereof.

§ 910.14 *Agents.* The Secretary may, by designation in writing, name any person, including any officer or employee of the Government, or name any bureau or division in the United States Department of Agriculture, to act as his agent or representative in connection with any of the provisions hereof.

§ 910.15 *Derogation.* Nothing contained herein is, or shall be construed to be, in derogation or in modification of the rights of the Secretary or of the United States to exercise any powers granted by the act, or otherwise, or in accordance with such powers, to act in the premises whenever such action is deemed advisable.

§ 910.16 *Personal liability.* No member or alternate member of the Administrative Committee, nor any employee or agent thereof, shall be held personally responsible, either individually or jointly with others, in any way whatsoever, to any handler or to any other person for errors in judgment, mistakes, or other acts, either of commission or omission, as such member, alternate member, or employee, except for acts of dishonesty.

§ 910.17 *Separability.* If any provision hereof is declared invalid, or the applicability thereof to any person, circumstance, or thing is held invalid, the validity of the remainder hereof, or the applicability thereof to any other person, circumstance, or thing, shall not be affected thereby.

§ 910.18 *Amendments.* Amendments hereto may be proposed, from time to time, by the Administrative Committee or by the Secretary.

Issued at Washington, D. C. this 7th day of April, 1942, to be effective on and after 12:01 a. m., m. w. t. April 13, 1942. Witness my hand and the seal of the Department of Agriculture.

[SEAL] CLAUDE R. WICKARD,
*Secretary of Agriculture.*

[F. R. Doc. 42-3110; Filed, April 8, 1942; 11:09 a. m.]

---

## TITLE 8—ALIENS AND NATIONALITY

### Chapter II—Office of the Alien Property Custodian

### PART 502—VESTING ORDERS

VESTING OF PROPERTY OF I. G. FARBENINDUSTRIE, A. G.—STOCK OF MAGNESIUM DEVELOPMENT CORPORATION

§ 502.2 *Vesting Order No. 2.* (a) I, Leo T. Crowley, Alien Property Custodian, acting under and by virtue of the authority vested in me by the President pursuant to section 5 (b) of the Act of October 6, 1917, as amended by section 301 of the First War Powers Act, 1941, finding upon investigation that 5,000 shares of the Class A stock of Magnesium Development Corporation, a Delaware corporation, presently held in the name of I. G. Farbenindustrie, A. G., or the property of Nationals of a Foreign Country designated in Executive Order No. 8389, as amended,[1] as defined therein, and that the action herein taken is in the public interest, do hereby order and declare that such properties including all interest therein are hereby vested in the Alien Property Custodian to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

(b) Such property and any proceeds thereof shall be held in a special account pending further determination of the Alien Property Custodian. This shall not be deemed to limit the power of the Alien Property Custodian to return such property or the proceeds thereof, or to indicate that compensation will not be paid in lieu thereof, if and when it should be determined that such return or compensation should be made.

(c) Any person not a national of a foreign country designated in Executive Order No. 8389, as amended, asserting any interest in said properties, or any party asserting any claim[2] as a result of this order, may file with the Alien Property Custodian a notice of his claim, together with a request for hearing thereon, on Form No. APC-1 within one year of the date of this order, or within such further time as may be allowed by the Alien Property Custodian. (E.O. 9095, 7 F.R. 1971)

This order shall be published in the FEDERAL REGISTER.

LEO T. CROWLEY,
*Alien Property Custodian.*

APRIL 4, 1942.

[F. R. Doc. 42-3093; Filed, April 7, 1942; 12:48 a. m.]

[1] 6 F.R. 2897, 3715, 6348, 6785.

---

### PART 502—VESTING ORDERS

VESTING OF PROPERTY OF LEOPOLD H. P. KLOTZ AND NORTH AMERICAN INVESTING COMPANY, INC.

§ 502.3 *Vesting Order No. 3.* (a) I, Leo T. Crowley, Alien Property Custodian, acting under and by virtue of the authority vested in me by the President pursuant to section 5 (b) of the Act of October 6, 1917, as amended by section 301 of the First War Powers Act, 1941, finding upon investigation that the property set forth in the list attached hereto, marked Exhibit "A" and made a part hereof, is the property of Nationals of a Foreign Country designated in Executive Order No. 8389, as amended, as defined therein, and that the action herein taken is in the public interest, do hereby order and declare that such properties including all interest therein are hereby vested in the Alien Property Custodian to be held, used, administered, liquidated, sold, or otherwise dealt with in the interest of and for the benefit of the United States.

(b) Such property and any proceeds thereof shall be held in a special account pending further determination of the Alien Property Custodian. This shall not be deemed to limit the power of the Alien Property Custodian to return such property or the proceeds thereof, or to indicate that compensation will not be paid in lieu thereof, if and when it should be determined that such return or compensation should be made.

(c) Any person not a national of a foreign country designated in Executive Order No. 8389, as amended, asserting any interest in said properties, or any party asserting any claim as a result of this order, may file with the Alien Property Custodian a notice of his claim, together with a request for hearing thereon, on Form No. APC-1 within one year of the date of this order, or within such further time as may be allowed by the Alien Property Custodian. (E.O. 9095, 7 F.R. 1971)

This order shall be published in the FEDERAL REGISTER.

LEO T. CROWLEY,
*Alien Property Custodian.*

APRIL 7, 1942.

[2] See 7 F.R. 2290.

EXHIBIT A—LIST OF THE PROPERTY OF LEOPOLD H. P. KLOTZ AND OF NORTH AMERICAN INVESTING COMPANY, INC., NATIONALS OF A FOREIGN COUNTRY DESIGNATED IN EXECUTIVE ORDER NO. 8389, AS AMENDED, AS DEFINED THEREIN, VESTED IN THE ALIEN PROPERTY CUSTODIAN BY VESTING ORDER PURSUANT TO SECTION 5 (b) OF THE TRADING WITH THE ENEMY ACT, AS AMENDED

All right, title and interest of Leopold H. P. Klotz in the following notes and contract and option agreement, including all extensions, modifications and renewals thereof:

1. Note dated December 30, 1940, for $300,000 issued by Luscombe Airplane Corporation, a corporation organized under the laws of the State of New Jersey, to Leopold H. P. Klotz, due December 31, 1945, convertible into shares of the capital stock of the said Luscombe Airplane Corporation as follows: at 1¼ per share if converted prior to June 30, 1943, and at 1½ per share if converted prior to December 31, 1945.

2. Demand notes issued by the said Luscombe Airplane Corporation to Leopold H. P. Klotz on the following dates and in the amounts indicated.

| | |
|---|---|
| January 2, 1942 | $100,000 |
| January 2, 1942 | 20,000 |
| January 7, 1942 | 3,000 |
| January 14, 1942 | 4,000 |
| January 29, 1942 | 10,000 |
| February 5, 1942 | 2,500 |
| February 19, 1942 | 5,000 |
| February 26, 1942 | 7,500 |
| March 6, 1942 | 2,500 |
| March 12, 1942 | 2,500 |

3. Collateral notes issued by North American Investing Company, Inc., a corporation organized under the laws of the State of Delaware, to Leopold H. P. Klotz all due on December 31, 1945, issued on the following dates and in the amounts as indicated:

| | |
|---|---|
| December 29, 1939 | $45,000 |
| December 29, 1939 | 63,000 |
| December 29, 1939 | 45,000 |
| January 3, 1940 | 10,000 |
| February 21, 1940 | 10,000 |
| March 1, 1940 | 20,000 |
| May 31, 1940 | 10,000 |
| June 12, 1940 | 10,000 |
| August 12, 1940 | 5,000 |
| September 30, 1940 | 7,500 |
| October 15, 1940 | 8,000 |
| October 30, 1940 | 18,000 |

4. All collateral security deposited with Leopold H. P. Klotz for the payment of the foregoing collateral notes.

5. Contract dated December 29, 1939, between North American Investing Company, Inc., and Leopold H. P. Klotz, as amended by the agreement dated November 18, 1941, by which Leopold H. P. Klotz was given an option to purchase on or before December 31, 1946, all or any part of the shares of stock of Luscombe Airplane Corporation owned or to be owned by North American Investing Company, Inc.

All right, title and interest of Leopold H. P. Klotz and of North American Investing Company, Inc., in the following shares of stock of Luscombe Airplane Corporation:

| Certificate No. | Number of shares | Name of registered owner |
|---|---|---|
| 3294-3299 | 74,000 | Leopold Klotz. |
| 3914-3921 | 800 | Harry Allen. |
| 3922 | 50 | Harry Allen. |
| 3737-3739 | 300 | Jason Bacon. |
| 3874 | 500 | Aaron Benson. |
| 3811 | 300 | Aaron Benson. |
| 3875-3876 | 200 | Aaron Benson. |
| 3809-3810 | 5,000 | Aaron Benson. |
| 2382-2391 | 1,000 | George Bradley. |
| 3027 | 100 | W. E. Burnet & Co. |
| 3029 | 100 | W. E. Burnet & Co. |
| 3033-3034 | 200 | W. E. Burnet & Co. |
| 3065 | 100 | W. E. Burnet & Co. |
| 3071 | 100 | W. E. Burnet & Co. |
| 3129-3133 | 500 | W. E. Burnet & Co. |
| 3155 | 100 | W. E. Burnet & Co. |
| 3138-3142 | 500 | W. E. Burnet & Co. |
| 2360-2371 | 600 | Walter Dalbey, Jr. |
| 3548-3551 | 400 | Walter Dalbey, Jr. |
| 3801-3805 | 500 | Paul S. Dixon. |
| 3879-3881 | 300 | Paul S. Dixon. |
| 3797-3800 | 4,000 | Paul S. Dixon. |
| 3877 | 1,000 | Paul S. Dixon. |
| 3878 | 500 | Paul S. Dixon. |
| 1668-1672 | 500 | Hemphill Noyes & Co. |
| 1677 | 100 | Hemphill Noyes & Co. |
| 1703-1706 | 400 | Hemphill Noyes & Co. |
| 1710-1712 | 300 | Hemphill Noyes & Co. |
| 1714-1717 | 400 | Hemphill Noyes & Co. |
| 1723-1725 | 300 | Hemphill Noyes & Co. |
| 1734-1742 | 900 | Hemphill Noyes & Co. |
| 3977-3979 | 300 | Hemphill Noyes & Co. |
| 690-697 | 800 | Hoppin Brothers & Co. |
| 1822-1833 | 1,200 | Hoppin Brothers & Co |
| 3775 | 100 | R. H. Johnson & Co. |
| 2871-2872 | 200 | John Lawler. |
| 2869 | 100 | John Lawler. |
| 3552-3557 | 600 | John Lawler. |
| 2362-2364 | 300 | James Leahy. |
| 3542-3547 | 600 | James Leahy. |
| 3795-3796 | 200 | Mrs. Constance B. Marcy. |
| 3873 | 100 | Mrs. Constance B. Marcy. |
| 3872 | 100 | Mrs. Constance B. Marcy. |
| 3554-3556 | 300 | Mrs. Constance B. Marcy. |
| 3869-3871 | 3,000 | Mrs. Constance B. Marcy. |
| 3791-3794 | 4,000 | Mrs. Constance B. Marcy. |
| 3403-3405 | 400 | Horace Marks. |
| 3415-3419 | 500 | Horace Marks. |
| 3458-3462 | 5,000 | Horace Marks. |
| 3678-3679 | 2,000 | Horace Marks. |
| 3341-3367 | 2,700 | Horace Marks. |
| 3368 | 50 | Horace Marks. |
| 3376-3377 | 2,000 | Horace Marks. |
| 3378-3384 | 700 | Horace Marks. |
| 3390-3397 | 2,000 | Horace Marks. |
| 3398-3399 | 200 | Horace Marks. |
| 2928 | 100 | G. M. P. Murphy & Co. |
| 2961 | 100 | G. M. P. Murphy & Co. |
| 3471 | 50 | G. M. P. Murphy & Co. |
| 3477-3511 | 3,500 | G. M. P. Murphy & Co. |
| 3516-3519 | 200 | G. M. P. Murphy & Co. |
| 3520-3521 | 50 | G. M. P. Murphy & Co. |
| 3522-3523 | 10 | G. M. P. Murphy & Co. |
| 3524-3525 | 20 | G. M. P. Murphy & Co. |
| 3526 | 3 | G. M. P. Murphy & Co. |
| 3527 | 2 | G. M. P. Murphy & Co. |
| 3528-3550 | 3 | G. M. P. Murphy & Co. |
| 3284-3292 | 45,000 | North American Investing Co., Inc. |
| 2937 | 31 | Ernst Oberhumer. |
| 2910-2936 | 2,700 | Ernst Oberhumer. |
| 2085-2099 | 15,000 | Ernst Oberhumer. |
| 2542-2701 | 16,000 | Ernst Oberhumer. |
| 2007 | 100 | Ernst Oberhumer. |
| 2449 | 98 | Ernst Oberhumer. |
| 3750 | 85 | Miss Margaret O'Connor. |
| 3748 | 100 | Miss Margaret O'Connor. |
| 3906-3913 | 800 | Miss Margaret O'Connor. |
| 2372-2381 | 1,000 | Paul Ostertag. |
| 3946 | 25 | E. S. Reinthaler & Co. |
| 3718-3719 | 100 | E. S. Reinthaler & Co. |
| 3715-3717 | 15 | E. S. Reinthaler & Co. |
| 3713 | 10 | E. S. Reinthaler & Co. |
| 3710 | 25 | E. S. Reinthaler & Co. |
| 3705-3708 | 400 | E. S. Reinthaler & Co. |
| 558-560 | 300 | Stern Lauer & Co. |
| 3761-3765 | 500 | Miss Catherine U. Sullivan. |
| 3740-3744 | 500 | Miss Catherine U. Sullivan. |
| 1460-1465 | 600 | W. R. K. Taylor & Co. |
| 1470 | 100 | W. R. K. Taylor & Co. |
| 1479-1481 | 300 | W. R. K. Taylor & Co. |
| 1483-1494 | 1,200 | W. R. K. Taylor & Co. |
| 1509-1512 | 400 | W. R. K. Taylor & Co. |
| 3217-3282 | 6,000 | Winslow, Douglas & McEvoy. |
| 3004 | 100 | Winslow, Douglas & McEvoy. |
| 3400 | 26 | Winslow, Douglas & McEvoy. |
| 3539-3540 | 200 | Winslow, Douglas & McEvoy. |
| 3541 | 1 | Winslow, Douglas & McEvoy. |
| 3720-3722 | 300 | Winslow, Douglas & McEvoy. |
| 3868 | 35 | Winslow, Douglas & McEvoy. |
| 3991 | 3 | Winslow, Douglas & McEvoy. |
| 3994 | 40 | Winslow, Douglas & McEvoy. |
| 4000 | 2 | Winslow, Douglas & McEvoy. |
| 4001 | 1 | Winslow, Douglas & McEvoy. |
| 1142 | 75 | Zink & Co. |
| 1042-1060 | 4,200 | Zink & Co. |
| 1096-1107 | 1,200 | Zink & Co. |
| 1129-1141 | 1,300 | Zink & Co. |

[P. R. Doc. 42-3109; Filed, April 8, 1942; 11:04 a. m.]

## TITLE 16—COMMERCIAL PRACTICES

### Chapter I—Federal Trade Commission

[Docket No. 4130]

### PART 3—DIGEST OF CEASE AND DESIST ORDERS

IN THE MATTER OF STANLEY LABORATORIES, INC., ET AL.

§ 3.6 (j 10) *Advertising falsely or misleadingly—History of product or offering:* § 3.6 (l) *Advertising falsely or misleadingly—Indorsements and testimonials:* § 3.6 (t) *Advertising falsely or misleadingly—Qualities or properties of product:* § 3.6 (x) *Advertising falsely or misleadingly—Results:* § 3.18 *Claiming indorsements or testimonials falsely.* In connection with offer, etc., of respondents' "M. D. Medicated Douche Powder" or other similar preparation, and among other things, as in order set forth, disseminating, etc., any advertisements by means of the United States mails, or in commerce, or by any means, to induce, etc., directly or indirectly, purchase in commerce, etc., of their said preparation, which advertisements represent, directly or through inference, (1) that respondents' preparation is a recent development of scientific research, or that it is endorsed by physicians and surgeons; (2) that respondents' preparation has either germicidal or spermatocidal properties under conditions of use; (3) that respondents' preparation will combat any form of bacteria, or that it will have any effect upon any bacteria in excess of that of a mild antiseptic; (4) that respondents' preparation has any substantial therapeutic value in the treatment of cuts, sores, or burns; (5) that the use of respondents' preparation will relieve fatigue or have any effect upon the cause of vaginal discharge; (6) that the use of respondents' preparation constitutes a preventative against conception, in excess of the mechanical effect of flushing the vagina; and (7) that respondents' preparation constitutes a prophylactic against disease; or which advertisements, in designating or describing their said preparation, or any other similar one, use the words "dependable", "dependable safeguard", "reliable safeguard", "effective reliable antiseptic powder", or any other words of similar import or meaning, in such a manner as to infer or

imply that such preparation is a contraceptive or prophylactic; prohibited. (Sec. 5, 38 Stat. 719, as amended by sec. 3, 52 Stat. 112; 15 U.S.C., Sup. IV, sec. 45b) [Cease and desist order, Stanley Laboratories, Inc., et al., Docket 4130, April 1, 1942]

§ 3.6 (1) *Advertising falsely or misleadingly—Indorsements and testimonials:* § 3.18 *Claiming indorsements or testimonials falsely:* § 3.96 (a) *Using misleading name—Goods—Indorsements and testimonials.* In connection with offer, etc., of respondents' "M. D. Medicated Douche Powder" or other similar preparation, and among other things, as in order set forth, using (1) the letters "M. D." in respondents' trade name, or in any other manner, either alone or in conjunction with the picturization of a doctor, nurse, or cross, to designate or describe respondents' preparation or any other preparation which has not been endorsed or recommended by the medical profession; and (2) the picturization of a cross or any other simulation of the American Red Cross emblem, either alone or in conjunction with the picturization of a doctor or a nurse, to designate or describe respondents' preparation; prohibited. (Sec. 5, 38 Stat. 719, as amended by sec. 3, 52 Stat. 112; 15 U.S.C., Sup. IV, sec. 45b) [Cease and desist order, Stanley Laboratories, Inc., et al., Docket 4130, April 1, 1942]

§ 3.6 (a) *Advertising falsely or misleadingly—Business status, advantages or connections of advertiser—Producer status of dealer or seller—Laboratory:* § 3.96 (b) *Using misleading name—Vendor—Producer or laboratory status of dealer or seller.* In connection with offer, etc., of respondents' "M. D. Medicated Douche Powder" or other similar preparation, and among other things, as in order set forth, using the word "Laboratories" or any other word of similar import or meaning in respondents' corporate or trade name, or representing through any other means or device, or in any manner, that the respondents own, operate, or control a laboratory equipped for the compounding of medicinal preparations and for research in connection therewith; prohibited. (Sec. 5, 38 Stat. 719, as amended by sec. 3, 52 Stat. 112; 15 U.S.C., Sup. IV, sec. 45b) [Cease and desist order, Stanley Laboratories, Inc., et al., Docket 4130, April 1, 1942]

*In the Matter of Stanley Laboratories, Inc., a Corporation, and Edward A. Bachman, an Individual Trading as Stillman Products Company and as Stanley Laboratories*

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 1st day of April, A. D. 1942.

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission, the answer of the respondents, testimony and other evidence taken before William C. Reeves, a trial examiner of the Commission therefore duly designated by it, in support of the allegations of the complaint and in opposition thereto, report of the trial examiner upon the evidence and exceptions filed thereto, briefs in support of the complaint and in opposition thereto, and oral arguments of counsel; and the Commission having made its findings as to the facts and its conclusion that said respondents have violated the provisions of the Federal Trade Commission Act;

*It is ordered,* That the respondents, Stanley Laboratories, Inc., a corporation, and its officers, and Edward A. Bachman, an individual trading as Stanley Laboratories, and their respective representatives, agents, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of their preparation "M. D. Medicated Douche Powder," or any other preparation of substantially similar composition or possessing substantially similar properties, whether sold under the same name or under any other name, do forthwith cease and desist from:

(1) Disseminating, or causing to be disseminated, any advertisement by means of the United States mails, or by any means in commerce as "commerce" is defined in the Federal Trade Commission Act, which advertisement represents, directly or through inference,

(a) That respondents' preparation is a recent development of scientific research, or that it is endorsed by physicians and surgeons;

(b) That respondents' preparation has either germicidal or spermatocidal properties under conditions of use;

(c) That respondents' preparation will combat any form of bacteria, or that it will have any effect upon any bacteria in excess of that of a mild antiseptic;

(d) That respondents' preparation has any substantial therapeutic value in the treatment of cuts, sores, or burns;

(e) That the use of respondents' preparation will relieve fatigue or have any effect upon the cause of vaginal discharge;

(f) That the use of respondents' preparation constitutes a preventative against conception, in excess of the mechanical effect of flushing the vagina;

(g) That respondents' preparation constitutes a prophylactic against disease;

(2) Disseminating or causing to be disseminated any advertisement by means of the United States mails, or by any means in commerce as "commerce" is defined in the Federal Trade Commission Act, which advertisement in designating or describing respondents' preparation "M. D. Medicated Douche Powder" or any other preparation of substantially similar composition or possessing substantially similar properties, or the effectiveness of the use of such preparation, uses the words "dependable," "dependable safeguard," "reliable safeguard," "effective reliable antiseptic powder," or any other words of similar import or meaning, in such a manner as to infer or imply that such preparation is a contraceptive or prophylactic;

(3) Disseminating, or causing to be disseminated, any advertisement by any means, for the purpose of inducing, or which is likely to induce, directly or indirectly, the purchase in commerce as "commerce" is defined in the Federal Trade Commission Act, of respondents' preparation, which advertisement contains any of the representations prohibited in paragraphs (1) and (2) hereof and the respective subdivisions thereof;

(4) The use of the letters "M. D." in respondents' trade name, or in any other manner, either alone or in conjunction with the picturization of a doctor, nurse, or cross, to designate or describe respondents' preparation or any other preparation which has not been endorsed or recommended by the medical profession;

(5) The use of the picturization of a cross or any other simulation of the American Red Cross emblem, either alone or in conjunction with the picturization of a doctor or a nurse, to designate or describe respondents' preparation;

(6) Use of the word "Laboratories" or any other word of similar import or meaning in respondents' corporate or trade name, or representing through any other means or device, or in any manner, that the respondents own, operate, or control a laboratory equipped for the compounding of medicinal preparations and for research in connection therewith.

*It is further ordered,* That the respondents shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which they have complied with this order.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 42-3119; Filed, April 8, 1942; 11:42 a. m.]

---

[Docket No. 4394]

PART 3—DIGEST OF CEASE AND DESIST ORDERS

IN THE MATTER OF EUCLID RUBBER & MANUFACTURING COMPANY

§ 3.6 (1) *Advertising falsely or misleadingly—Indorsements and testimonials:* § 3.6 (ee 5), *Advertising falsely or misleadingly—Tests and investigations:* § 3.18 *Claiming indorsements or testimonials falsely.* In connection with offer, etc., in commerce, of electric lamp guards, handles for safety lights, and other electrical devices, and among other things, as in order set forth, representing, directly or by implication, (1) that any product or products not tested or approved by Underwriters' Laboratories, Inc., Electrical Testing Laboratories or Hydro-Electric Power Commission of Ontario have been so tested or approved; and (2) that any product or products have been tested or approved by any organization when such product or products have not been so tested or approved; prohibited. (Sec. 5, 38 Stat. 719, as amended by sec. 3, 52 Stat. 112; 15 U.S.C., Sup. IV, sec. 45b) [Cease and desist order, Euclid Rubber & Manufacturing Company, Docket 4394, April 3, 1942]

§ 3.6 (b) *Advertising falsely or misleadingly—Competitors and their products—Competitors:* § 3.48 (a) *Disparag-*

*ing competitors and their products—Competitors—Business facilities, size or scope.* In connection with offer, etc., in commerce, of electric lamp guards, handles for safety lights, and other electrical devices, and among other things, as in order set forth, disparaging the Ericson Manufacturing Company, or any other competitor, by representing that its manufacturing facilities, or the size and scope of its business, are less than is the fact, or by making other false representations with respect to any such competitor or its business operations; prohibited. (Sec. 5, 38 Stat. 719, as amended by sec. 3, 52 Stat. 112; 15 U.S.C., Sup. IV, sec. 45b) [Cease and desist order, Euclid Rubber & Manufacturing Company, Docket 4394, April 3, 1942]

*In the Matter of Frank G. Huntington, Joseph Posterhofer, Herman Posterhofer, and Louis Walton, trading and doing business under the name Euclid Rubber & Manufacturing Company*

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 3d day of April, A. D. 1942.

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission, testimony and other evidence taken before examiners of the Commission theretofore duly designated by it, report of the trial examiner, and briefs filed herein in support of and in opposition to the complaint, and the Commission having made its findings as to the facts and its conclusion that said respondents have violated the provisions of the Federal Trade Commission Act:

*It is ordered,* That respondents Frank G. Huntington, an individual, and Herman Posterhofer, an individual, jointly or severally, trading as the Euclid Rubber & Manufacturing Company, or under any other name, directly or through any corporate or other device, in connection with the offering for sale, sale, and distribution of electric lamp guards, handles for safety lights, and other electrical devices in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

(1) Representing directly or by implication that any product or products not tested or approved by Underwriters' Laboratories, Inc., Electrical Testing Laboratories or Hydro-Electric Power Commission of Ontario have been so tested or approved.

(2) Representing directly or by implication that any product or products have been tested or approved by any organization when such product or products have not been so tested or approved;

(3) Disparaging the Ericson Manufacturing Company, or any other competitor, by representing that its manufacturing facilities, or the size and scope of its business, are less than is the fact, or by making other false representations with respect to any such competitor or its business operations.

*It is further ordered,* That respondents shall, within sixty (60) days after the service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with this order.

*It is further ordered,* That the case growing out of the complaint herein be, and the same hereby is, closed as to respondent Joseph Posterhofer and Louis Walton for the reasons set out in the findings as to the facts herein without prejudice to the right of the Commission, should future facts so warrant, to reopen the same and resume trial thereof in accordance with its regular procedure.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 42-3118; Filed, April 8, 1942; 11:42 a. m.]

## TITLE 24—HOUSING CREDIT

### Chapter IV—Home Owners' Loan Corporation

[Bulletin No. 11]

### PART 402—LOAN SERVICE DIVISION

#### GENERAL POLICY AND HOME OFFICE

Sections 402.00 (h) and 402.00-1 are amended[1] as follows:

Section 402.00 (h) *Authority to pay expenses in connection with servicing,* is amended by deleting from the first sentence thereof the words and figures "except as otherwise expressly provided by the Board" and "not exceeding $50."

The first sentence of § 402.00-1 *Authority to pay certain expenses in connection with servicing,* is amended by changing the period to a comma at the end thereof and adding the following words and figures "up to and not exceeding $50."

(Effective March 16, 1942.)

(Secs. 4 (a), 4 (k) of Home Owners' Loan Act of 1933, 48 Stat. 129, 132, as amended by sec. 13 of the Act of April 27, 1934, 48 Stat. 647; 12 U.S.C. 1463 (a), (k), E.O. 9070, 7 F.R. 1529)

[SEAL] J. FRANCIS MOORE, *Secretary.*

[F. R. Doc. 42-3094; Filed, April 7, 1942; 2:00 p. m.]

[Bulletin No. 12]

### PART 402—LOAN SERVICE DIVISION

#### PROPERTY TRANSFER

Section 402.17 (a)[2] is amended to read as follows:

§ 402.17 *Property transfer*—(a) *Property purchase by Corporation employee.* Officers or employees of the Corporation are not permitted to purchase from home owners properties on which the Corporation holds a mortgage or sales instrument, unless and until the transaction has been approved by the General Manager. Such cases shall be submitted to the Property Committee in the Home Office for their recommendation and reference to the General Manager.

Section 402.17-4[3] *Property purchase by Corporation employee,* is amended by deleting the last two sentences thereof.

(Effective March 16, 1942.)

(Secs. 4 (a), 4 (k) of Home Owners' Loan Act of 1933, 48 Stat. 129, 132, as amended by sec. 13 of the Act of April 27, 1934, 48 Stat. 647; 12 U.S.C. 1463 (a), (k), E.O. 9070, 7 F.R. 1529)

[SEAL] J. FRANCIS MOORE, *Secretary.*

[F. R. Doc. 42-3095; Filed, April 7, 1942; 2:01 p. m.]

[Bulletin No. 4]

### PART 403—PROPERTY MANAGEMENT DIVISION

#### PROPERTY COMMITTEE FUNCTIONS

All that portion of paragraph (i) (2) of § 403.02 which follows immediately after subdivision (v),[4] is amended to read as follows:

§ 403.02 *Property Committee.*

* * * * * *

(i) * * *

and to submit all such cases with its recommendations to the General Manager or Deputy General Manager in Charge for final action. Where any purchaser from the Corporation referred to in this paragraph is also a former borrower as defined in § 403.10 the sales price requirements of said § 403.10 shall apply.

* * * * * *

(Effective March 12, 1942.)

(Secs. 4 (a), 4 (k) of Home Owners' Loan Act of 1933, 48 Stat. 129, 132, as amended by sec. 13 of the Act of April 27, 1934, 48 Stat. 647; 12 U.S.C. 1463 (a), (k), E.O. 9070, 7 F.R. 1529)

[SEAL] J. FRANCIS MOORE, *Secretary.*

[F. R. Doc. 42-3097; Filed, April 7, 1942; 2:01 p. m.]

[Bulletin No. 10]

### PART 413—RENTAL AND CONTRACTS

#### FUNCTIONS

The second paragraph of § 413.00 is amended to read as follows:

§ 413.00 *Functions.* * * *

All leases or contracts for the rental of office space shall be approved by the General Manager with the advice of the General Counsel.

(Effective March 13, 1942.)

(Secs. 4 (a), 4 (k) of Home Owners' Loan Act of 1933, 48 Stat. 129, 132, as amended by sec. 13 of the Act of April 27, 1934, 48 Stat. 647; 12 U.S.C. 1463 (a), (k), E.O. 9070, 7 F.R. 1529)

[SEAL] J. FRANCIS MOORE, *Secretary.*

[F. R. Doc. 42-3096; Filed, April 7, 1942; 2:01 p. m.]

[1] 6 F.R. 5631, 5636.

[2] 6 F.R. 5633.

[3] 6 F.R. 5639.

[4] Designated (e) at 5 F.R. 1090.

## TITLE 30—MINERAL RESOURCES

### Chapter III—Bituminous Coal Division

[Docket No. A-1353]

### PART 322—MINIMUM PRICE SCHEDULE, DISTRICT NO. 2

ORDER GRANTING TEMPORARY RELIEF AND CONDITIONALLY PROVIDING FOR FINAL RELIEF IN THE MATTER OF THE PETITION OF DISTRICT BOARD NO. 2, FOR THE ESTABLISHMENT OF PRICE CLASSIFICATIONS AND MINIMUM PRICES FOR THE COALS OF CERTAIN MINES IN DISTRICT NO. 2

An original petition, pursuant to section 4 II (d) of the Bituminous Coal Act of 1937, having been duly filed with this Division by the above-named party, requesting the establishment, both temporary and permanent, of price classifications and minimum prices for the coals of certain mines in District No. 2; and

It appearing that a reasonable showing of necessity has been made for the granting of temporary relief in the manner hereinafter set forth; and

No petitions of intervention having been filed with the Division in the above-entitled matter; and

The following action being deemed necessary in order to effectuate the purposes of the Act;

*It is ordered,* That, pending final disposition of the above-entitled matter, temporary relief is granted as follows: Commencing forthwith, § 322.7 (*Alphabetical list of code members*) is amended by adding thereto Supplement R–I, § 322.9 (*Special prices*—(c) *Railroad fuel*) is amended by adding thereto Supplement R–II, and § 322.23 (*General prices*) is amended by adding thereto Supplement T, which supplements are hereinafter set forth and hereby made a part hereof.

No relief is granted herein as to the coals of the Shultz Mine, Mine Index No. 1726, of Ray Shultz as it appears that this is the same mine as the Arnold Mine of J. Harold Arnold, for whose coals minimum prices for truck shipments were established by an Order in Docket No. A–287 and by an Order in Docket No. A–1172 For All Shipments Except Truck.

*It is further ordered,* That pleadings in opposition to the original petition in the above-entitled matter and applications to stay, terminate or modify the temporary relief herein granted may be filed with the Division within forty-five (45) days from the date of this Order, pursuant to the Rules and Regulations Governing Practice and Procedure before the Bituminous Coal Division in Proceedings Instituted Pursuant to section 4 II (d) of the Bituminous Coal Act of 1937.

*It is further ordered,* That the relief herein granted shall become final sixty (60) days from the date of this Order, unless it shall otherwise be ordered.

Dated: March 28, 1942.

[SEAL] DAN H. WHEELER,
*Acting Director.*

### TEMPORARY AND CONDITIONALLY FINAL EFFECTIVE MINIMUM PRICES FOR DISTRICT NO. 2

NOTE: The material contained in these supplements is to be read in the light of the classifications, prices, instructions, exceptions, and other provisions contained in Part 322, Minimum Price Schedule for District No. 2 and supplements thereto.

FOR ALL SHIPMENTS EXCEPT TRUCK

§ 322.7 *Alphabetical list of code members*—Supplement R–I

[Alphabetical listing of code members having railway loading facilities, showing price classification by size group Nos.]

| Mine Index No. | Code member | Mine name | Seam | Subdistrict No. | Shipping point | Railroad | Freight origin group No. | Size group Nos. | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | | | | | | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 | 13 | 14 | 15 | 16 |
| 6 | Atlantic Crushed Coke Company | Atlantic #2 | Pittsburgh | 5 | Derry, Pa. | PRR | 91 | G | G | G | G | H | (*) | G | G | G | ----- | ----- | ----- | ----- | ----- | ----- | ----- |
| 2360 | Baucant, Joseph | Presutti #2 (Strip) | Pittsburgh | 7 | McDonald, Pa. | PRR | 74 | ----- | ----- | ----- | ----- | ----- | H | H | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- |
| 2356 | Dorsey Coal Co. (Evan Jones) | Blaine #3 (Strip) | Pittsburgh | 7 | Mifflin Jct., Pa. | Union | 76 | ----- | ----- | ----- | ----- | ----- | F | H | H | H | ----- | ----- | ----- | ----- | ----- | ----- | ----- |
| 2353 | Walker, J. D. & Co. (J. D. Walker) | Kaylor #2 (Strip) | Freeport | 1 | Kaylor, Pa. | WA | 21 | F | F | E | E | E | E | F | F | F | ----- | ----- | ----- | ----- | ----- | ----- | ----- |

§ 322.9 *Special prices*—(c) *Railroad fuel*—Supplement R–II. In § 322.9 (c) in Minimum Price Schedule No. 1, add the mine index numbers in groups shown. Group No. 2: 2356; 2360; Group No. 12: 2353.

FOR TRUCK SHIPMENTS

§ 322.23 *General prices*—Supplement T

[Prices in cents per net ton for shipment into all market areas]

| Code member index | Mine index No. | Mine | Seam | Base sizes | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | | Lump over 4" | Lump 4" | Lump 3" | Lump 2" | Egg 2" x 4" | Stove 1" x 4" | Pea ¼" x 1¼" | Run of mine | 2" N/S | 1¼" slack | ¼" slack |
| | | | | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 |
| ALLEGHENY COUNTY | | | | | | | | | | | | | | |
| Dorsey Coal Co. (Evan Jones). | 2356 | Blaine #3 (Strip)... | Pittsburgh... | 255 | 275 | 265 | 240 | 220 | 220 | 210 | 220 | 190 | 180 | 170 |
| BUTLER COUNTY | | | | | | | | | | | | | | |
| Vicari, Domenich & Sons. (Domenich Vicari). | 2351 | Vicari's..... | Freeport.... | 315 | 300 | 290 | 280 | 270 | 260 | 240 | 230 | 200 | 190 | 180 |
| Walker, J. D. & Co. (J. D. Walker). | 2353 | Kaylor #2 (Strip)... | Freeport.... | 325 | 305 | 285 | 265 | 250 | 245 | 245 | 230 | 190 | 180 | 170 |
| FAYETTE COUNTY | | | | | | | | | | | | | | |
| Erminio, Emilio (Leckrone Coal & Coke Company). | 2357 | Keena..... | Pittsburgh... | 290 | 280 | 270 | 250 | 230 | 220 | 215 | 220 | 205 | 200 | 175 |
| Hay, Walter G..... | 2352 | Lilliock (Strip)..... | Pittsburgh... | 290 | 280 | 270 | 250 | 230 | 220 | 215 | 220 | 205 | 200 | 175 |
| VENANGO COUNTY | | | | | | | | | | | | | | |
| Boyles, E. N. (Boyles Coal & Supply Co.). | 2358 | Clintonville..... | Kittanning.. | 325 | 305 | 285 | 265 | 260 | 245 | 245 | 230 | 190 | 170 | 160 |
| WASHINGTON COUNTY | | | | | | | | | | | | | | |
| Baucant, Joseph..... | 2360 | Presutti #2 (Strip).. | Pittsburgh... | 260 | 270 | 260 | 235 | 230 | 215 | 205 | 215 | 190 | 170 | 160 |
| WESTMORELAND COUNTY | | | | | | | | | | | | | | |
| Murray, J. S. & Sons (J. E. Murray). | 2354 | Murray..... | Pittsburgh... | 255 | 275 | 265 | 240 | 220 | 220 | 220 | 220 | 190 | 180 | 170 |

[F. R. Doc. 42–3084; Filed, April 7, 1942; 10:50 a. m.]

---

[Dockets Nos. A–137, A–208, and A–251]

## PART 334—MINIMUM PRICE SCHEDULE, DISTRICT NO. 14

MEMORANDUM OPINION AND ORDER MODIFYING AND APPROVING AND ADOPTING AS MODIFIED, THE PROPOSED FINDINGS OF FACT AND PROPOSED CONCLUSIONS OF LAW OF THE EXAMINER, GRANTING RELIEF IN PART, AND DENYING REQUEST FOR ORAL ARGUMENT IN THE MATTERS OF THE PETITIONS OF DISTRICT BOARD 14 FOR THE ESTABLISHMENT OF PRICE CLASSIFICATIONS AND MINIMUM PRICES FOR THE COALS OF CERTAIN MINES NOT HERETOFORE CLASSIFIED AND PRICED AND FOR THE REVISION OF CERTAIN PRICE CLASSIFICATIONS AND MINIMUM PRICES FOR THE COALS OF CERTAIN MINES HERETOFORE CLASSIFIED AND PRICED

This proceeding was instituted upon petitions filed by District Board 14 with the Bituminous Coal Division, pursuant to section 4 II (d) of the Bituminous Coal Act of 1937, seeking temporary and permanent relief establishing minimum prices on coals not theretofore classified and priced and numerous revisions in the effective minimum price schedules of District 14. Intervening petitions were filed by the Great Western Coal Company and the Ozark Coal Company,[1] code members in District 14.

On November 13, 1940, 5 F.R. 4541, the Director issued an Order consolidating the foregoing petitions for hearing before an Examiner of the Division, and granted temporary relief in these matters, as shown in Temporary Supplement No. 3 to the Schedule of Effective Minimum Prices for District No. 14 for All Shipments Except Truck and Temporary Supplement No. 4 to the Schedule of Effective Minimum Prices for District No. 14 for Truck Shipments. On January 28, 1941, 6 F.R. 691, the Director issued a Memorandum Opinion and Order Concerning Temporary Relief and Other Matters deciding, *inter alia*, that temporary revision in the classifications and prices as therein shown should be made with respect to the coals of the Buck Creek Coal Mining Company, Hetherington Bros. Coal Company, R. A. Young & Son Coal Company, Paul Rees, The Great Western Coal Company, and the Liberty Coal Company, code members in District 14. On June 13, 1941, 6 F.R. 2921, the Director issued a Memorandum Opinion and Order Concerning Temporary Relief, establishing prices shown in Supplement R attached thereto to the Schedule of Effective Minimum Prices for District No. 14 for All Shipments Except Truck and Supplement T attached thereto to the Schedule of Effective Minimum Prices for District No. 14 for Truck Shipments, establishing price classifications and minimum Prices for rail and truck shipments for District 14 producers in Production Groups 2–9, inclusive, in Size Group 12, and amending said Schedules to include Price Exceptions 5, 6, and 7.

Pursuant to Order of the Director, a hearing in this matter was held before Floyd McGown, a duly designated Examiner of the Division, at a hearing room thereof in Fort Smith, Arkansas. All interested persons were afforded an opportunity to be present, adduce evidence, cross-examine witnesses, and otherwise be heard. The Ozark Coal Company, the Great Western Coal Company, Coaldale Smokeless Coal Company, Liberty Coal Company, Harper & Thornton Coal Company, R. A. Young & Son Coal Company, and the Sugar Creek Coal Company, code members in District 14, and the petitioner appeared.

At the hearing, the petitioner requested that all matters relating to the classifications and prices of Paul Rees, Buck Creek Coal Company, and Hetherington Bros. Coal Company be withdrawn. On June 27, 1941, the Director issued Orders severing those portions of Docket No. A–137 relating to Great Western Coal Company and Harper & Thornton Coal Company from this proceeding.

Following the hearing, the Ozark Coal Company filed a petition with the Division requesting temporary relief classifying its No. 1 mine (Mine Index No. 206) at the same minimum f. o. b. mine prices as the No. 1 mine (Mine Index No. 122) of R. A. Young & Sons, Jenny Lind, Arkansas, upon a basis of "new circumstances and situations" arising after the conclusion of the hearing. District Board 14 filed an answer denying the allegations of the Ozark Coal Company's petition and opposing the temporary relief sought.

Thereafter, the Examiner made his Report, Proposed Findings of Fact, Proposed Conclusions of Law, and Recommendations, dated November 22, 1941, in which he recommended the amendment of the District 14 price schedules as set forth in Supplements R and T annexed thereto and made a part thereof and in which he recommended, *inter alia*, that the relief sought in Docket No. A–208 by the Ozark Coal Company be denied. On December 29, 1941, exceptions to that part of the Examiner's Report concerning it and a supporting brief were filed by the Ozark Coal Company, and on January 26, 1942, District Board 14 filed a brief in reply to said exceptions.

[1] The Ozark Coal Company has been succeeded by the Ruby Glow Mining Co. (% W. C. Roberts). However, for the sake of uniformity and since exceptions to the Examiner's Report were filed by the Ozark Coal Company, I shall use the old name throughout this Opinion and Order.

The petitioner proposed the establishment of classifications and effective minimum prices for the No. 1 Mine of the Ozark Coal Company identical with classifications and minimum prices previously established on a temporary basis for the same mine when it was owned and operated by the Sunshine Anthracite Coal Company under the name of the Sunshine Mine. The classifications and effective minimum prices proposed by the petitioner for the coals of the No. 1 Mine of the Ozark Coal Company were also the same as those of other Grade A coals in the Spadra field. Ozark Coal Company opposed the establishment of the proposed classifications and minimum prices, contending that all Grade A Spadra coals were proposed at too high a level in relation to other coals in District 14, particularly the Paris field and Sebastian County coals, and that Spadra coals should enjoy the same classifications as the Jenny Lind coals of R. A. Young and Son, Sebastian County, Arkansas. No Spadra operator, other than Ozark, complained of the level of Spadra minimum prices in this proceeding.

In his Report the Examiner found that the coals of the No. 1 Mine of the Ozark Coal Company should be classified and priced the same as other Grade A Spadra field coals, as set out in Supplements R and T attached to his Report, pointing out that Ozark had made no effort to establish that its coals should be priced differently from other Spadra Grade A coals. Although noting that Ozark had made an elaborate effort to show the competitive nature of Spadra, Paris, and Jenny Lind coals, the Examiner found that it had failed to prove that those coals have the same market value or have a market history of selling at comparable prices. Indeed, the Examiner found that District Board 14's contention to the contrary was supported by substantial evidence. The Examiner stated that it was clear that prior to the time when Ozark's predecessor, the Sunshine Anthracite Coal Company, entered the market, Spadra coals always sold at a price substantially above Paris and Jenny Lind and had always been considered better coals. The Examiner concluded that Ozark could ill claim the impairment by the effective minimum prices of its fair competitive opportunities merely because inroads on the markets of inferior coals had been made by Sunshine Anthracite's selling a superior coal at the prices of such inferior coals.

The Ozark Coal Company contends that the effective minimum prices temporarily established for its coals do not reflect, as nearly as possible, their relative market value, nor preserve their existing fair competitive opportunities. According to Ozark, the evidence indicates that under open competition the relative market value at the point of delivery of the Spadra and Paris coals was approximately the same, any difference therein being due to freight rates, and further indicates that the Spadra and Sebastian coals were, for all practical purposes, sold at equal prices. In its reply brief, District Board 14 contends that the evidence indicated that under open competition and prior to the time Sunshine Anthracite Coal Company took over operation of what is now Ozark's No. 1 Mine, Spadra coals had always sold at a price above Paris and Jenny Lind coals. District Board 14 also contends that Spadra coals are not comparable to Jenny Lind coals. District Board 14 states, also, that Ozark's coals are identical with all other Grade A Spadra coals, and indeed, that if anything their structure is harder and volatility considerably lower.

The substantial weight of the evidence was to the effect and I find that the Spadra and Jenny Lind coals are decidedly different in quality and not used for the same purposes. The record shows that the Spadra coals are of a hard structure and are essentially domestic coals, except for slack sizes which are used in smelters, whereas Jenny Lind coals are of relatively soft structure and are considered domestic, railroad, and steam coals. Furthermore, Ozark's contention that these coals sold at substantially comparable prices under open competition is not supported by substantial evidence. I further find, as indeed Ozark admits in its exceptions, that the uncontroverted and undisputed evidence shows that a differential in price existed at all times on Paris coal below Spadra coal until about 1937, and that Sebastian County coal prices had always been somewhat below Spadra and Paris coal prices. Further, the record reveals and I find that prior to 1937 when, the evidence indicates, Ozark's predecessor, the Sunshine Anthracite Coal Company entered the market, Spadra coals always sold at a price *substantially* above Paris and Jenny Lind coals, varying from at least 20 to 50 cents more per ton than Paris coals. That Sunshine Anthracite thereafter engaged in selling the superior Spadra coals in the markets of inferior coals at the prices of such inferior coals does not establish the existence of such a competitive opportunity as merits protection. While the Act provides for the preservation, as nearly as may be, of *existing fair* competitive opportunities, it eliminates the competitive opportunities to effect sales by means of such destructive price cutting as led to its passage.

Ozark excepts to a statement made by the Examiner "that the Bernice Anthracite Coal Company is an operator in the Spadra field," Ozark claiming that the undisputed evidence is that the Bernice Anthracite Coal Company had abandoned its property and ceased operations. I find that the Examiner stated in his Report that the Bernice Mine of the Bernice Anthracite Coal Company was located *outside* the Spadra field (although in the same Production Group). However, it is true that the evidence indicates that the Bernice Mine was no longer in operation, and the findings of the Examiner should be corrected accordingly. Such a correction is merely one of form, as whether or not the Bernice Mine is in operation is immaterial to the issue.

Ozark also contends that the Examiner should not have taken into account the witness Gregory's "admissions" that the Binkley Coal Company had advertised Spadra coals as a distinctive product superior to other District 14 coals and that the position taken by Sunshine Anthracite in Docket No. 68–FD, claiming the non-applicability of the Act to it on the ground that its Spadra coals were anthracite rather than bituminous, was at variance with that of Ozark here. Ozark states that the witness Gregory could make no admission binding on it, and that the issues involved in Docket No. 68–FD have been finally determined and are res judicata.

Gregory, the vice president and general manager of the western division of Binkley Coal Company, the exclusive sales agent formerly for Sunshine Anthracite and now for Ozark, testified as a witness for Ozark. His testimony, while perhaps not binding upon Ozark as an admission, is nevertheless valid testimony tending to prove that Ozark and its predecessor, Sunshine Anthracite, consider the Spadra coals superior to other District 14 coals and have marketed them, through their sales agent as such. The testimony of the witness Gregory does not re-litigate the question determined in Docket No. 68–FD. The claim made by Sunshine Anthracite in that proceeding, however, is indicative of its belief as to the nature of its coals, a belief which is entitled to consideration, and the witness Gregory's testimony to show what that belief was is relevant and material evidence. In any event, there is substantial evidence in the record to show, and I find that the Spadra coals are superior to the Paris and Jenny Lind coals; the Ozark Coal Company's contentions to the contrary must be rejected.

Ozark also excepts to the statement by the Examiner that the witness Brown, Assistant Secretary of District Board 14, testified that prior to October 1, 1940, Spadra coals were priced higher in comparison with Sebastian County coals than under the effective minimum prices. Ozark states that the witness Brown made no such statement. As to this, Ozark's exception is well taken and the findings should be corrected accordingly. It was the witness Collier who testified to that effect. Since, however, the witness Collier was the operator of a mine in the Spadra field located four miles east of the Ozark No. 1 Mine, his testimony as to the foregoing is entitled to as much weight as it would have been had it been given by the witness Brown. Furthermore, in its exceptions Ozark admits that the uncontroverted evidence shows, and I find that Sebastian County coal prices had always been somewhat below Spadra coal prices. I further find that prior to October 1, 1940, Spadra coals were priced higher in comparison with Paris and Sebastian County coals than under the effective minimum prices.

No exceptions to the Examiner's Report, Proposed Findings of Fact, Proposed Conclusions of Law, and Recommendations herein, or briefs, have been filed, other than those filed by Ozark.

After consideration of all the evidence, the Proposed Findings of Fact, Proposed Conclusions of Law, and Recommendations of the Examiner, the exceptions thereto, and the brief in support thereof, I find that, except as indicated above, the exceptions are not well taken and that substantial evidence supports the Proposed Findings of Fact and Proposed Conclusions of Law of the Examiner.

I find that the Proposed Findings of Fact and Proposed Conclusions of Law of the Examiner herein should, as modified above, be approved and adopted as the Findings of Fact and Conclusions of Law of the undersigned. I further find that Ozark's request for oral argument should be denied.

*Now, therefore, it is ordered,* That the Proposed Findings of Fact and Proposed Conclusions of Law of the Examiner, as modified, be and they hereby are approved and adopted as the Findings of Fact and Conclusions of Law of the undersigned;

*It is further ordered,* That § 334.1 (b) (*Price instructions and exceptions—Price exceptions*) is amended by adding thereto Supplement R–I, § 334.5 (*Alphabetical list of code members*) is amended by adding thereto Supplements R–II and R–IV, § 334.6 (*General prices*) is amended by adding thereto Supplement R–III, § 334.21 (*Price instructions and exceptions*—(b) *Price exceptions*) is amended by adding thereto Supplement T–I, § 334.24 (*General prices for shipment into all market areas*) is amended by adding thereto Supplements T–II, T–III and T–IV, which supplements are hereinafter set forth and hereby made a part hereof.

*It is further ordered,* That the prayers for relief contained in the several petitions filed herein are granted to the extent set forth above and in all other respects are hereby denied.

*It is further ordered,* That the request for oral argument herein by Ozark Coal Company be and it hereby is denied.

Dated: March 28, 1942.

[SEAL] DAN H. WHEELER,
*Acting Director.*

## FINAL EFFECTIVE MINIMUM PRICES FOR DISTRICT NO. 14

NOTE: The material contained in these supplements is to be read in the light of the classifications, prices instructions, exceptions and other provisions contained in Part 334, Minimum Price Schedule for District No. 14 and supplements thereto.

### FOR ALL SHIPMENTS EXCEPT TRUCK

§ 334.1 *Price instructions and exceptions*—(b) *Price exceptions*—Supplement R–I.

5. Prices listed herein for Nesch Coal Company may be reduced a maximum of 15 cents per net ton for shelly, off-grade coal, in Size Groups 4, 6, 7, and 8, provided the District Board, with the approval of the Bituminous Coal Division, upon petition of the producer or upon its own motion determines that such coal is shelly, off-grade coal. All orders, acknowledgments, and invoices shall contain a complete description of such shelly, off-grade coal.

6. Prices listed herein for coals in Size Group 3 with a bottom size larger than 2½" shall be increased 15 cents per net ton for such coals of producers in Production Groups 2 to 9, inclusive, except for producers listed in Price Exception 7.

7. Prices listed herein for coals in Size Group 3 with a bottom size larger than 2½" shall be increased 25 cents per net ton for such coals of Safeway Coal Company, Henderson Coal Company, and Panama Vein Coal Co.

§ 334.5 *Alphabetical list of code members*—Supplement R–II. The Schedule of Effective Minimum Prices for District No. 14 For All Shipments Except Truck is supplemented to include the establishment in Size Group 12 of Price Classification "L" for all mines in Production Groups 2 to 9, inclusive.

[Alphabetical list of code members showing price classification by size group for all uses except railroad locomotive fuel]

| Mine index No. | Code member | Mine name | Production group No. | Shipping point | Railroad | Freight origin group No. | Price classification by size group | | | | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | | | | | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 | 13 | 14 | 15 | 16 | 17 | 18 | 19 | 20 |
| 152 | Big Four Coal Company (J. E. Hart) | Big "4" | 1 | Spadra, Ark | MP | 33 | ----- | ----- | B | ----- | ----- | O | ----- | ----- | ----- | G | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- |
| 20 | Coaldale Smokeless Coal Company | Coaldale Smokeless Coal Co. | 9 | Heavener, Okla | KCS | 13 | ----- | ----- | D | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- |
| 134 | Henderson, D. A. (Henderson Coal Company). | No. 7 | 7 | Bokoshe, Okla | FtS&VB | 12 | ----- | ----- | D | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- |
| 115 | McAlpine, George (McAlpine-Poteau Coal Co.). | McAlpine #1 | 8 | Poteau, Okla | SL-SF | 16 | ----- | ----- | ----- | I | ----- | J | J | J | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- |
| 401 | Martin, Chas. (Chas. Martin Coal Co.) | Martin | 2 | Alix, Ark | MP | 14 | ----- | ----- | D | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | B | ----- | ----- | ----- | Q | ----- | ----- |
| 162 | Porter Excelsior Coal Company (Lee Porter). | Porter | 5 | Excelsior, Ark | MV | 15 | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | H | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- |
| 207 | Poteau Matchless Coal Co. (Lory H. Smith). | #1 Matchless | 8 | Poteau, Okla | KCS | 13 | ----- | ----- | ----- | I | ----- | J | J | J | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- |
| 87 | Quality Coal Co. (Tony Zagar) | Quality | 8 | Panama, Okla | KCS | 13 | ----- | ----- | ----- | I | ----- | J | J | J | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- |
| 107 | Sugar Creek Coal Company, Inc. % I. G. McRae. | Sugar Creek Coal Co. | 9 | Heavener, Okla | AW | 10 | ----- | ----- | D | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- |
| 60 | White, H. W. (Hiawatha Coal Company).[1] | Hiawatha Coal Co | 9 | Heavener, Okla | AW | 10 | ----- | ----- | D | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- |

[1] Denotes change in Code Membership since originally classified.

Amend § 334.6 in Minimum Price Schedule for all shipments except truck by adding the following:

§ 334.6 *General prices*—Supplement R–III

[Subject to price instructions and exceptions shown above]

| | Price classification | Size groups | | | | | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 | 13 | 14 | 15 | 16 | 17 | 18 | 19 | 20 |
| § 334.6 | O | ---- | ---- | ---- | ---- | ---- | 375 | ---- | ---- | ---- | ---- | ---- | ---- | ---- | ---- | ---- | ---- | ---- | ---- | ---- | ---- |
| § 334.6 | L | ---- | ---- | ---- | ---- | ---- | ---- | ---- | ---- | ---- | ---- | ---- | 300 | ---- | ---- | ---- | ---- | ---- | ---- | ---- | ---- |
| § 334.6 | O | ---- | ---- | ---- | ---- | ---- | 340 | ---- | ---- | ---- | ---- | ---- | ---- | -- | ---- | ---- | ---- | ---- | ---- | ---- | ---- |
| § 334.6 | L | ---- | ---- | ---- | ---- | ---- | ---- | ---- | ---- | ---- | ---- | ---- | 265 | ---- | ---- | ---- | ---- | ---- | ---- | ---- | ---- |

§ 334.5 *Alphabetical list of code members*—Supplement R–IV

[Alphabetical list of code members showing price classification by size group for all uses except railroad locomotive fuel]

| Mine index No. | Code member | Mine name | Production group No. | Shipping point | Railroad | Freight origin group No. | Price classification by size group | | | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | | | | | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 | 13 | 14 | 15 | 16 | 17 | 18 | 19 | 20 |
| 211 | Evans, Matt (Evans Coal Company) | Evans | 2 | Alix, Ark | MP | 14 | ----- | ----- | ----- | C | ----- | C | D | D | C | D | D | ----- | D | B | B | B | A | F | ---- | ---- |
| 66 | Liberty Coal Company (J. B. Leding)[1] | Liberty | 2 | Alix, Ark | MP | 14 | ----- | ----- | ----- | J | ----- | K | K | K | L | K | I | ----- | D | B | B | B | A | M | ---- | ---- |
| 206 | Ruby Glow Mining Co. % W. C. Roberts[1] | Ruby Glow | 1 | Spadra, Ark | MP | 33 | ----- | ----- | ----- | B | ----- | B | A | A | B | A | A | A | A | A | A | A | ---- | A | ---- | ---- |

[1] Denotes change in Code Membership since originally classified.

FOR TRUCK SHIPMENTS

§ 334.21 *Price instructions and exceptions*—(b) *Price exceptions*—Supplement T–I.

5. Prices listed herein for Nesch Coal Company may be reduced a maximum of 15 cents per net ton for shelly, off-grade coal, in Size Groups 4, 6, 7, and 8, provided the District Board, with the approval of the Bituminous Coal Division, upon petition of the producer or upon its own motion determines that such coal is shelly, off-grade coal. All orders, acknowledgments, and invoices shall contain a complete description of such shelly, off-grade coal.

6. Prices listed herein for coals in Size Group 3 with a bottom size larger than 2½" shall be increased 15 cents per net ton for such coals of producers in Production Groups 2 to 9, inclusive, except for producers listed in Price Exception 7.

7. Prices listed herein for coals in Size Group 3 with a bottom size larger than 2½" shall be increased 25 cents per net ton for such coals of Safeway Coal Company, Henderson Coal Company, and Panama Vein Coal Co.

§ 334.24 *General prices for shipment into all market areas*—Supplement T-II. The Schedule of Effective Minimum Prices for District No. 14 For Truck Shipments is supplemented to include the establishment in Size Group 12 of a minimum price of 300 cents per net ton for all mines in Production Groups 2 to 9, inclusive, for shipment into all market areas.

| Code member index | Mine index No. | Mine | County | Sub-district No. | Prices and size group No. | | | | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | | | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 | 13 | 14 | 15 | 16 | 17 | 18 | 19 | 20 |
| Big Four Coal Company (J. E. Hart) | 152 | Big "4" | Johnson, Ark. | 1 | ----- | ----- | 400 | ----- | ----- | 375 | ----- | ----- | ----- | 370 | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- |
| Coaldale Smokeless Coal Company | 20 | Coaldale Smokeless Coal Co. | Le Flore, Okla. | 9 | ----- | ----- | 370 | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- |
| Henderson, D. A. (Henderson Coal Company) | 134 | No. 7 | Le Flore, Okla. | 7 | ----- | ----- | 370 | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- |
| McAlpine, George (McAlpine-Poteau Coal Co.) | 115 | McAlpine #1 | Le Flore, Okla. | 8 | ----- | ----- | ----- | 415 | ----- | 415 | 415 | 415 | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- |
| Martin, Chas. (Chas. Martin Coal Co.) | 401 | Martin | Franklin, Ark. | 2 | ----- | ----- | 370 | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | 135 | ----- | ----- | ----- | 270 | ----- | ----- |
| Porter Excelsior Coal Company (Lee Porter) | 182 | Porter | Sebastian, Ark. | 5 | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | 325 | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- |
| Poteau Matchless Coal Co. (Lory H. Smith) | 207 | #1 Matchless | Le Flore, Okla. | 8 | ----- | ----- | ----- | 415 | ----- | 415 | 415 | 415 | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- |
| Quality Coal Co. (Tony Zagar) | 87 | Quality | Le Flore, Okla. | 8 | ----- | ----- | ----- | 415 | ----- | 415 | 415 | 415 | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- |
| Sugar Creek Coal Company, Inc., c/o J. G. McRae. | 107 | No. 1 | Le Flore, Okla. | 9 | ----- | ----- | 370 | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- |
| White, H. W. (Hiawatha Coal Company) [1] | 60 | Herbert | Le Flore, Okla. | 9 | ----- | ----- | 370 | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- |
| Bayse, Harvey A. | 440 | Bayse | Franklin, Ark. | 2 | ----- | ----- | 425 | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | 135 | ----- | ----- | ----- | 350 | ----- | ----- |
| Blue Ribbon Coal Company (John Radcliff) | 436 | Blue Ribbon | LeFlore, Okla. | 7 | ----- | ----- | 370 | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | 135 | ----- | ----- | ----- | 270 | ----- | ----- |
| Currens & Vallion Coal Co. (Han Curren) | 441 | No. 11 | LeFlore, Okla. | 6 | ----- | ----- | 370 | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | 135 | ----- | ----- | ----- | 270 | ----- | ----- |
| Estes, Walter (Estes Coal Company) [1] | 91 | Estes | Logan, Ark. | 3 | ----- | ----- | 385 | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | 135 | ----- | ----- | ----- | 280 | ----- | ----- |
| Garner & McCalister (John E. Garner) | 442 | Double Diamond | Sequoyah, Okla. | 7 | ----- | ----- | 400 | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | 135 | ----- | ----- | ----- | 315 | ----- | ----- |
| Johnson & Womack Coal Co. (Thos. Johnson) | 443 | #14 | LeFlore, Okla. | 6 | ----- | ----- | 370 | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | 135 | ----- | ----- | ----- | 270 | ----- | ----- |
| Reginato, Myrtle (Myrtle R. Coal Co.) | 446 | Myrtle R. | Franklin, Ark. | 4 | ----- | ----- | 355 | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | 135 | ----- | ----- | ----- | 270 | ----- | ----- |
| Weathers Coal Company (C. A. Weathers) | 435 | Weathers | Johnson, Ark. | 2 | ----- | ----- | 335 | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | 135 | ----- | ----- | ----- | 270 | ----- | ----- |

§ 334.24 *General prices for shipment into all market areas*—Supplement T-III

| Code member index | Mine index No. | Mine | County | Sub-district No. | Prices and size group No. | | | | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | | | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 | 13 | 14 | 15 | 16 | 17 | 18 | 19 | 20 |
| Bennett, N. E. [1] | 427 | Bennett | Pope, Ark. | 1 | 450 | 425 | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | 250 | 200 | 200 | 200 | ----- | 450 | ----- | ----- |
| Double U Coal Co. (O. L. Marshall) [1] | 430 | Double U | LeFlore, Okla. | 7 | ----- | ----- | 370 | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | 135 | ----- | ----- | ----- | 270 | ----- | ----- |
| Evans, Matt (Evans Coal Company) | 211 | Evans | Franklin, Ark. | 2 | ----- | ----- | ----- | 460 | ----- | 460 | 460 | 460 | 435 | 395 | 370 | ----- | 200 | 135 | 115 | 105 | 155 | 385 | ----- | ----- |
| Hammock Coal Co. (Herman Hammock, Jr.) | 202 | #1 | Haskell, Okla. | 10 | ----- | ----- | 400 | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | 135 | ----- | ----- | ----- | ----- | ----- | 500 |
| Kistler Coal Company [1] | 203 | Rock Island | LeFlore, Okla. | 6 | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | 135 | ----- | ----- | ----- | ----- | ----- | ----- |
| Liberty Coal Company (J. B. Loding) [1] | 66 | Liberty | Franklin, Ark. | 2 | ----- | ----- | ----- | 405 | ----- | 405 | 405 | 405 | 380 | 340 | 315 | ----- | 200 | 135 | 115 | 105 | 155 | 330 | ----- | ----- |
| Ruby Glow Mining Co. % W. O. Roberts [1] | 206 | Ruby Glow | Johnson, Ark. | 1 | ----- | ----- | ----- | 465 | ----- | 470 | 485 | 495 | 440 | 520 | 520 | 495 | 460 | 200 | 200 | 200 | ----- | 450 | ----- | ----- |
| Parker & Son Coal Company (J. E. Parker) | 204 | Tancred | Sebastian, Ark. | 6 | ----- | ----- | 335 | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | 135 | ----- | ----- | ----- | 270 | 165 | ----- |
| Patton, M. L. [1] | 353 | M. L. Patton Coal Co. | Franklin, Ark. | 2 | ----- | ----- | 425 | 425 | ----- | 425 | 425 | 425 | ----- | ----- | ----- | ----- | ----- | 135 | ----- | ----- | ----- | 350 | ----- | ----- |
| Roach, James [1] | 354 | Good Luck | Franklin, Ark. | 2 | ----- | ----- | 385 | 385 | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | 135 | ----- | ----- | ----- | 270 | ----- | ----- |
| Rock Creek Coal Co. (J. O. De Moss) [1] | 205 | Rock Creek | Sebastian, Ark. | 5 | ----- | ----- | 335 | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | 135 | ----- | ----- | ----- | 270 | ----- | ----- |
| St. Clair, Claude | 352 | St. Clair | Johnson, Ark. | 2 | ----- | ----- | 425 | ----- | ----- | 425 | 425 | 425 | ----- | ----- | ----- | ----- | ----- | 135 | ----- | ----- | ----- | 350 | ----- | ----- |
| Simpson, Joe [1] | 429 | Wofford | Franklin, Ark. | 2 | ----- | ----- | 425 | 425 | ----- | 425 | 425 | 425 | ----- | ----- | ----- | ----- | ----- | 135 | ----- | ----- | ----- | 350 | ----- | ----- |
| Smith Coal Co., Henry (Wallace Key) | 400 | Smith | Franklin, Ark. | 2 | ----- | ----- | 385 | 385 | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | 135 | ----- | ----- | ----- | 270 | ----- | ----- |
| Spencer, Stanley (Spencer Coal Mine) [1] | 428 | Spencer | Haskell, Okla. | 10 | ----- | ----- | 400 | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | 135 | ----- | ----- | ----- | ----- | ----- | 500 |
| Wister Smokeless Coal Company (H. B. Mixon) | 201 | No. 1 | LeFlore, Okla. | 8 | ----- | ----- | 370 | 385 | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | 135 | ----- | ----- | ----- | 270 | ----- | ----- |

[1] Denotes change in Code Membership since originally classified.

## DISTRICT NO. 14

### TRUCK SHIPMENTS

§ 334.24 *General prices for shipment into all market areas*—Supplement T-IV

| Code member index | Mine index No. | Mine | County | Sub-district No. | Prices and size group No. | | | | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | | | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 | 13 | 14 | 15 | 16 | 17 | 18 | 19 | 20 |
| Brasher, Will L. [1] | 448 | Jack DiMont | Johnson, Ark. | 2 | ----- | ----- | 335 | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | 135 | ----- | ----- | ----- | 270 | ----- | ----- |
| Fox, R. A. | 447 | No. 1 | Sebastian, Ark. | 5 | ----- | ----- | 335 | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | 135 | ----- | ----- | ----- | 270 | ----- | ----- |
| Goldsworthy Co. Mine (Hubert Sewell) | 453 | Goldsworthy | Logan, Ark. | 3 | ----- | ----- | 385 | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | 135 | ----- | ----- | ----- | 280 | ----- | ----- |
| Ideal Coal Co. (George Williams) | 452 | Ideal Coal Co. | Haskell, Okla. | 7 | ----- | ----- | 370 | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | 135 | ----- | ----- | ----- | 270 | ----- | ----- |
| Ratterree, M. E. (Ratterree Coal Company) | 451 | No. 1 | Sequoyah, Okla. | 10 | ----- | ----- | 400 | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | 135 | ----- | ----- | ----- | ----- | ----- | 500 |

[1] Denotes change in Code Membership since originally classified.

[F. R. Doc. 42-3095; Filed, April 7, 1942; 10:50 a. m.]

## TITLE 32—NATIONAL DEFENSE

### Chapter IX—War Production Board

Subchapter B—Division of Industry Operations

### PART 933—COPPER

SUPPLEMENTARY CONSERVATION ORDER NO. M-9-C-2

§ 933.7 *Supplementary Conservation Order M-9-c-2*—(a) *Definitions.* For the purposes of this Order:

(1) "Jewelry" means all articles commonly known as costume jewelry costume novelties including without limitation, mesh bags, vanity cases, compacts, cigarette cases, lighters and articles of adornment designed to be worn on or about the person, and also jewelry findings, jewelry chains and rolled gold plate produced for use in the manufacture of such articles. It does not include any article made of precious stones or more than 50 per cent of which is composed of precious metals.

(2) "Copper" means any metal in any form, including scrap, containing 25 per cent or more copper by weight including nickel silver, but excluding alloyed gold produced in accordance with United States Commercial Standards CS51-35, Cs67-38.

(3) "Contaminated Inventory" means any copper in the inventory of any manufacturer of jewelry which was contaminated by plating or alloying with gold or silver prior to April 1, 1942, provided that such contamination was not effected in violation of General Conservation Order No. M-9-c, No. M-43-a or any other Order of the Director of Industry Operations.

(4) "Use" means any process, including assembling.

(b) *Prohibition of use in the manufacture of jewelry.* (1) No person shall use any copper in the manufacture of jewelry after May 15, 1942.

(2) During the period from the effective date of this Order to May 15, 1942, inclusive, no person shall use any copper except Contaminated Inventory in the manufacture of jewelry.

(c) *Restrictions on deliveries.* (1) No person shall deliver, and no person shall accept delivery of, any copper other than Contaminated Inventory for use in the manufacture of jewelry.

(2) No manufacturer of jewelry shall deliver any copper to any person except

(i) Finished products not made in violation of this Order or any other Order of the Director of Priorities or the Director of Industry Operations.

(ii) Contaminated Inventory delivered to another manufacturer of jewelry prior to May 16, 1942.

(iii) Pursuant to preference rating of A-8 or higher.

(iv) To Defense Supplies Corporation, Metals Reserve Company, or any other corporation organized under section 5 (d) of the Reconstruction Finance Corporation Act, as amended, or any person acting as agent for such corporation.

(v) With specific permission of the Director of Industry Operations.

(d) *Violations.* Any person who wilfully violates any provision of this Order or who wilfully furnishes false information to the Director of Industry Operations in connection with this Order is guilty of a crime, and upon conviction may be punished by fine or imprisonment. In addition, any such person may be prohibited from making or obtaining further deliveries or from processing or using material under priority control and may be deprived of priorities assistance by the Director of Industry Operations.

(e) *Applicability of Priorities Regulation No. 1.* This Order and all transactions affected thereby are subject to the provision of Priorities Regulation No. 1, as amended from time to time, except to the extent that any provision hereof may be inconsistent therewith, in which case the provisions of this Order shall govern.

(f) *Effect on other orders.* From the effective date hereof, the provisions of this Order shall govern in any case where they are inconsistent with the provisions of General Conservation Order M-9-c, as amended.

(g) *Effective date.* This Order shall take effect immediately. (P.D. Reg. 1, as amended, 6 F.R. 6680; W.P.B. Reg. 1, 7 F.R. 561, E.O. 9024, 7 F.R. 329, E.O. 9040, 7 F.R. 527; sec. 2 (a), Pub. Law 671, 76th Cong., as amended by Pub. Law 89, 77th Cong.)

Issued this 4th day of April, 1942.

J. S. KNOWLSON,
*Director of Industry Operations.*

[F. R. Doc. 42-3114; Filed, April 8, 1942; 11:32 a. m.]

### PART 1042—IMPORTS OF STRATEGIC MATERIALS

AMENDMENT NO. 4 TO GENERAL IMPORTS ORDER M-63 [1]

Section 1042.1 (*General Imports Order M-63*) is hereby amended as follows:

(1) By amending paragraph (b) to read as follows:

(b) *Restrictions on imports of strategic materials.* After the date upon which any Strategic Material is made subject to this Order, no person, other than Metals Reserve Company, Defense Supplies Corporation, and any other United States governmental department, agency or corporation, or any agent acting for such company, department, agency or corporation, shall, without the written authorization of the Director of Industry Operations, purchase for import, or make any contract or other arrangement for the importing of, any such Strategic Material. Applications for authorization to contract or arrange for the purchase or importing of Strategic Materials shall be made in duplicate on form PD-222-c. This prohibition shall not prevent the importing, under the restrictions hereinafter set forth, of Strategic Material by any person under any contract made before, or in existence on the date when such Material was made subject to the provisions of this Order.

(2) By striking out the words "Federal Loan Agency" in paragraphs (e) (1) and (e) (2) and inserting in lieu thereof the words "Reconstruction Finance Corporation".

(3) By striking out the word "Chromium" on List "A" and inserting in lieu thereof the words "Chrome Ore or Chromite".

(4) By adding to List A the following:

| Material | Ec. class | Commodity No. |
|---|---|---|
| Babassu-nuts and kernels | 0 | 2239.1 |
| Babassu-nut oil | 0 | 2257.1 |
| Cashew nuts and cashew nut kernels | 2 | 1377.0 |
| Cashew nut oil and cashew nut shell oil | 0 | 2257.2 |
| Castor beans | 0 | 2231.0 |
| Castor oil | 0 | 220.02 |
| Cohune nuts and kernels.[1] | | |
| Columbite or Columbium ore | 1 | 6270.3 |
| Cotton linters, munitions or chemical grades only (grades 3-6 according to Department of Agriculture classification) | 0 | 3003.0 |
| Flax (not hackled) | 0 | 3262.5 |
| | 0 | 3252.0 |
| Graphite or plumbago, amorphous natural, except of Mexican origin | 1 | 6730.1 |
| Graphite or plumbago, crystalline lump, chip, or dust | 1 | 6730.0 |
| Mercury-bearing ores and concentrates.[1] | | |
| Oiticica oil | 0 | 2257.0 |
| Seed lac | 1 | 2105.0 |
| Tantalite or tantalum ore | 1 | 6270.4 |

[1] Ec. class and commodity numbers for these materials have not been assigned by the Department of Commerce Statistical Classification of Imports.

(P.D. Reg. 1, as amended, 6 F.R. 6680; W.P.B. Reg. 1, 7 F.R. 561, E.O. 9024, 7 F.R. 329; E.O. 9040, 7 F.R. 527; sec. 2 (a), Pub. Law 671, 76th Cong., as amended by Pub. Law 89, 77th Cong.)

This Amendment shall take effect on April 8, 1942.

Issued this 8th day of April 1942.

J. S. KNOWLSON,
*Director of Industry Operations.*

[F. R. Doc. 42-3116; Filed, April 8, 1942; 11:34 a. m.]

### PART 1055—WOOL

AMENDMENT NO. 3 TO CONSERVATION ORDER M-73,[1] AS AMENDED AND EXTENDED TO JULY 4, 1942—CURTAILING THE USE OF WOOL

Section 1055.1 (*Conservation Order M-73*) as amended and extended to July 4, 1942 is hereby further amended as follows:

By changing paragraph (f) (6) (iv) (*b*), to read as follows:

"On any other system using tops, cut tops or broken tops, the first operation of cutting, breaking, picking or carding, as the case may be."

This amendment shall take effect immediately. (P.D. Reg. 1, as amended, 6 F.R. 6680; W.P.B. Reg. 1, Jan. 26, 1942, 7 F.R. 561, E.O. 9024, 7 F.R. 329; E.O. 9040, 7 F.R. 527; sec. 2 (a), Pub. Law 671,

[1] 6 F.R. 6796; 7 F.R. 206, 223, 2094.

[1] 7 F.R. 2127, 2296.

76th Cong., as amended by Pub. Law 89, 77th Cong.).

Issued this 8th day of April 1942.

J. S. KNOWLSON,
*Director of Industry Operations.*

[F. R. Doc. 42-3112; Filed, April 8, 1942; 11:33 a. m.]

---

## PART 1167—LIQUEFIED PETROLEUM GAS EQUIPMENT

### GENERAL LIMITATION ORDER NO. L-86

The fulfillment of requirements for the defense of the United States has created a shortage in the supply of liquefied Petroleum Gas and Liquefied Petroleum Gas Equipment for defense, for private account and for export; and the following Order is deemed necessary and appropriate in the public interest and to promote the national defense:

§ 1167.1 *General Limitation Order L-86*—(a) *Applicability of Priorities Regulation No. 1.* This Order and all transactions affected thereby are subject to the provisions of Priorities Regulation No. 1 (Part 944), as amended from time to time, except to the extent that any provision of this Order may be inconsistent therewith, in which case such provision shall govern.

(b) *Definitions.* For the purposes of this Order:

(1) "Person" means any individual, partnership, association, business trust, corporation, governmental corporation or agency or any organized group of persons, whether incorporated or not.

(2) "Liquefied petroleum gas equipment" means equipment (other than marine, rail, pipeline or truck facilities used in transportation of liquefied petroleum gas and other than equipment used in refining), or parts thereof, used to contain, distribute, or dispense butane, propane, propylene, butene, butylene, or any combination or dilution thereof, commonly known as liquefied petroleum gas.

(3) "Refining" means the operation of a plant or plants for the production of finished or unfinished petroleum, including blending plants which blend neutral, bright-stocks and long residuum to finished S. A. E. grades.

(4) "Petroleum" means petroleum, petroleum products and associated hydrocarbons, including but not limited to natural gas.

(5) "Material" means any commodity, equipment, accessory, part, assembly, or product of any kind.

(6) Subject to subparagraph (8), "maintenance" means the upkeep of liquefied petroleum gas equipment in a sound working condition with a minimum expenditure of material.

(7) Subject to subparagraph (8), "repair" means the restoration of liquefied petroleum gas equipment to a sound working condition when such equipment has been rendered unsafe or unfit for further service by wear and tear, damage, destruction or failure of parts or similar causes.

(8) The terms "maintenance" and "repair" do not include either of the following:

(i) The use of material for the improvement of liquefied petroleum gas equipment through the replacement of material in the existing installation, unless the equipment which is replaced is beyond economic repair or has been rendered unusable by fire or other hazard or natural cause and is scrapped or junked;

(ii) The use of material for additions to or expansion of liquefied petroleum gas equipment.

(c) *Conservation of liquefied petroleum gas equipment.* Subject to the exceptions in paragraph (d) hereof, no person shall install liquefied petroleum gas equipment. Subject to the exceptions of paragraph (d) hereof, no person shall deliver or otherwise supply, or cause to be delivered or otherwise supplied, any liquefied petroleum gas equipment for installation purposes.

(d) *Exceptions.* The provisions of paragraph (c) hereof shall not apply in the following instances:

(1) To any case where material is to be used by a person for the maintenance or repair of liquefied petroleum gas equipment;

(2) To any case where actual physical work of installation of liquefield petroleum gas equipment had commenced prior to January 14, 1942: *Provided,* That such work of installation must then have been scheduled for completion and be actually completed on or before May 15, 1942;

(3) To any case where liquefied petroleum gas equipment is to be installed which liquefied petroleum gas equipment was installed and in actual use prior to April 1, 1942, and which liquefied petroleum gas equipment was subsequently withdrawn from such use;

(4) To any case where containers of equal capacity are exchanged (or a container replaced by one of lesser capacity) on the premises of any person in the normal course of distribution of liquefied petroleum gas;

(5) To any case where the Director of Industry Operations, War Production Board, has determined that the use of liquefied petroleum gas equipment is necessary and appropriate in the public interest and to promote the war effort (including any such determination made under Conservation Order M-68-c). Application for such a determination shall be made by letter and filed with the Director of Industry Operations, Washington, D. C. Information to be submitted in such applications shall be in accordance with Form PD-397, issued by the War Production Board.

(e) *Required certification.* Any person acquiring liquefied petroleum gas equipment shall endorse on all copies of each purchase order or contract for such equipment which are placed with any person, a statement in the following form signed manually or as provided in Priorities Regulation No. 7 (944.27) by an official duly authorized for such purpose:

The liquefied petroleum gas equipment which is ordered in this purchase order (or contract) is to be used in conformity with the provisions of General Limitation Order No. L-86, with the terms of which Order the undersigned is familiar.

---
Name of person

By ---
Signature of duly authorized official

Such endorsement shall constitute a representation to the War Production Board and the person with whom the purchase order or contract is placed that the liquefied petroleum gas equipment obtained under such purchase order or contract will be used in accordance with the provisions of this Order. Such person shall be entitled to rely on such representation unless he knows or has reason to believe it to be false. No person shall, in the absence of such endorsement, deliver or otherwise supply, or cause to be delivered or otherwise supplied, any liquefied petroleum gas equipment.

This paragraph shall not apply in either of the following cases:

(1) To the acquisition of liquefied petroleum gas equipment by any person for maintenance and repair, as described in paragraph (d) (1) above, where the equipment to be maintained or repaired is used exclusively by such person for domestic cooking and heating, or,

(2) In the case of exchange or replacement of containers as described in paragraph (d) (4) above.

(f) *Preference ratings.* No person engaged in any operation covered by this Order shall be entitled to apply the preference ratings assigned by Preference Rating Order P-46 or Preference Rating Order P-98, to obtain material for use in any operation covered by this Order.

(g) *Violations.* Any person who violates any of the provisions of this Order or who by any act or omission falsifies records to be kept or information to be furnished pursuant to this Order may be prohibited from receiving further deliveries of any material subject to allocation, and such further action may be taken as is deemed appropriate, including a recommendation for prosecution under section 35 (A) of the Criminal Code (18 U.S.C. 80).

(h) *Effective date.* This Order shall take effect on the date of issuance and shall continue in effect until revoked. (P.D. Reg. 1, as amended, 6 F.R. 6680; W.P.B. Reg. 1, 7 F.R. 561, E.O. 9024, 7 F.R. 329; E. O. 9040, 7 F.R. 527; sec. 2 (a), Pub. Law 671, 76th Cong., as amended by Pub. Law 89, 77th Cong.)

Issued this 8th day of April, 1942.

J. S. KNOWLSON,
*Director of Industry Operations.*

[F. R. Doc. 42-3115; Filed, April 8, 1942; 11:33 a. m.]

---

## PART 1175—LOOFA SPONGES

### CONSERVATION ORDER M-125

The fulfillment of requirements for the defense of the United States has created a shortage in the supply of Loofa

Sponges for defense, for private account and for export; and the following Order is deemed necessary and appropriate in the public interest and to promote the national defense:

§ 1175.1 *Conservation Order M-125*—(a) *Applicability of Priorities Regulation No. 1.* This Order and all transactions affected thereby are subject to the provisions of Priorities Regulation No. 1 (Part 944, as amended from time to time, except to the extent that any provision hereof may be inconsistent therewith, in which case the provisions of this Order shall govern.

(b) *Definitions.* For the purposes of this Order:

(1) "Loofa sponges" means whole sponges which are the product of the loofa (luffa) plant.

(2) "Dealer" means any person who purchases loofa sponges for resale and the term shall also include importers, agents, and brokers.

(c) *Restrictions on sales, deliveries, and cutting of loofa sponges.* No dealer shall hereafter sell, transfer title to, or deliver, and no person, other than a dealer, shall hereafter purchase, accept transfer of title to, or deliveries of or cut or process loofa sponges except upon defense orders bearing a preference rating of A-1-a or better.

(d) *Restrictions on use of loofa sponges.* No person shall hereafter use, cut or process loofa sponges for any purpose except upon defense orders bearing a preference rating of A-1-a or better.

(e) *Appeal.* Any person affected by this Order who considers that compliance therewith would work an exceptional and unreasonable hardship upon him, or that it would result in a degree of unemployment which would be unreasonably disproportionate compared with the amount of loofa sponges conserved, or that compliance with this order would disrupt or impair a program of conversion from nondefense to defense work, may appeal to the War Production Board by letter or telegram, Ref: M-125, setting forth the pertinent facts and the reason he considers he is entitled to relief. The Director of Industry Operations may thereupon take such action as he deems appropriate.

(f) *Reports.* All persons affected by this Order shall execute and file with the War Production Board such reports and questionnaires as shall from time to time be required by said Board.

(g) *Records.* All persons affected by this Order shall keep and preserve for not less than two years accurate and complete records concerning inventories, production and sales.

(h) *Communications to War Production Board.* All reports required to be filed hereunder, and all communications concerning this Order, shall, unless otherwise directed, be addressed to: War Production Board, Washington, D. C., Ref.: M-125.

(i) *Violations.* Any person who wilfully violates any provision of this Order, or who by any act or omission falsifies records to be kept or information to be furnished pursuant to this Order, may be prohibited from receiving further deliveries of any material subject to allocation and such further action may be taken as is deemed appropriate, including a recommendation for prosecution under section 35 (A) of the Criminal Code (18 U.S.C. 80).

(j) *Effective date.* This Order shall take effect immediately. (P.D. Reg. 1, as amended, 6 F.R. 6680; W.P.B. Reg. 1, 7 F.R. 561, E.O. 9024, 7 F.R. 329; E.O. 9040, 7 F.R. 527; sec. 2 (a), Pub. Law 671, 76th Cong., as amended by Pub. Law 89, 77th Cong.)

Issued this 8th day of April 1942.

J. S. KNOWLSON,
*Director of Industry Operations.*

[F. R. Doc. 42-3113; Filed, April 8, 1942; 11:35 a. m.]

## Chapter XI—Office of Price Administration

### PART 1349—ELECTRICAL GENERATION, TRANSMISSION, CONVERSION AND DISTRIBUTION APPARATUS

#### ORDER NO. 1 UNDER REVISED PRICE SCHEDULE NO. 82 [1]—WIRE, CABLE AND CABLE ACCESSORIES

On February 24, 1942, March 9, 1942 and March 24, 1942 General Electric Company, Schenectady, New York, filed reports pursuant to § 1349.4 (e) of Revised Price Schedule No. 82, as amended. Due consideration has been given to such reports and an opinion in support of this Order No. 1 has been issued simultaneously herewith and has been filed with the Division of the Federal Register. For the reasons set forth in the opinion, under the authority vested in the Price Administrator by the Emergency Price Control Act of 1942, and in accordance with § 1349.10 (c) of Revised Price Schedule No. 82, as amended, it is hereby ordered that:

§ 1349.51 *General Electric Company.* (a) The price sheet dated March 2, 1942 covering "Formex Magnet Wire Prices", a copy of which is attached hereto and marked "Exhibit A",[2] be and the same is hereby approved.

(b) The price sheet dated April 6, 1942 covering "Flamenol—Bus Drop Cable, Three Conductor—with Ground Wire—600 Volts—SI-58179", a copy of which is attached hereto and marked "Exhibit B",[2] be and the same is hereby approved.

(c) The price sheet dated March 20, 1942 covering "Flamenol—Street Lighting Cable for Series Circuit—Single Conductor", a copy of which is attached hereto, and marked "Exhibit C",[2] be and the same is hereby approved.

(d) This Order No. 1 may be revoked or amended by the Price Administrator at any time.

(e) This Order No. 1 shall become effective April 8, 1942.

(Pub. Law 421, 77th Cong.)

Issued this 7th day of April 1942.

LEON HENDERSON,
*Administrator.*

[F. R. Doc. 42-3098; Filed, April 7, 1942; 4:26 p. m.]

[1] 7 F.R. 1358, 2133.
[2] Filed as part of the original document.

### PART 1406—MECHANICAL POWER—TRANSMISSION EQUIPMENT

#### AMENDMENT NO. 1 TO REVISED PRICE SCHEDULE NO. 105 [1]—GEARS, PINIONS, SPROCKETS AND SPEED REDUCERS

A statement of the considerations involved in the issuance of this Amendment has been prepared and is issued simultaneously herewith.[2]

Two new undesignated paragraphs are added to § 1406.4 (c), new paragraph (k) is added to § 1406.7, new § 1406.8a is added, and § 1406.4 (d), § 1406.7 (f) and (h), and § 1406.9 (c) are amended, as set forth below:

§ 1406.4 *Records and reports.*

* * * * *

(c) * * *

A report on Form 205:1 or 205:2 may be made as to any "special" item which has not yet qualified as a "recurring special." If such a report has been made, no report shall be required if and when the item becomes a "recurring special" by virtue of a later order.

The provisions of this § 1406.4 (c) shall not apply to any manufacturer of gears, pinions, sprockets or speed reducers whose total gross sales of such items during the year 1941 amounted to less than $5,000.

(d) Persons affected by this Revised Price Schedule No. 105 shall keep such other records and submit to the Office of Price Administration such other reports including periodic profit and loss statements and balance sheets, in addition to or in the place of those records and reports herein required, as the Office of Price Administration may from time to time require in writing.

§ 1406.7 *Definitions.*

* * * * *

(f) "Speed reducer" means an enclosed gear drive for use in the transmission of power at increased, decreased or variable speed either horizontally, vertically, or angularly, but does not include automotive or tractor transmissions, differentials, or axle assemblies.

* * * * *

(h) "Recurring special gear, pinion, sprocket, or speed reducer" means:

(1) Any gear, pinion, sprocket, or speed reducer, other than those above defined as "standard", for which at least two orders have been or may be received subsequent to February 18, 1941, and of which the manufacturer's sales since that date amounted to $1,000 or more, or 500 units or more; or, if the manufacturer shall so elect,

(2) Any gear, pinion, sprocket, or speed reducer, other than those above defined as "standard", when sold to a customer from whom at least two orders for the item have been or may be received subsequent to February 18, 1941, amounting to $1,000 or more, or 500 units or more: *Provided,* That, if the manufacturer shall elect to use the definition

[1] 7 F.R. 1404, 1836, 2132.
[2] Filed with the Division of the Federal Register; requests for copies should be addressed to the Office of Price Administration.

stated in (2), he shall use that definition exclusively.

* * * * *

(k) "Sale" includes sales or exchanges or other transfers of gears, pinions, sprockets, and speed reducers and also includes the machining of materials furnished by the customer into the form of gears, pinions, sprockets, and speed reducers. The terms "sell" and "buy" shall be construed accordingly.

§ 1406.9 *Appendix A: Maximum prices for gears, pinions, sprockets and speed reducers.*

* * * * *

(c) The maximum price for any "special" gear, pinion, sprocket, or speed reducer shall be the price which would have been charged on October 15, 1941, if such price had been calculated upon labor rates and material prices existing on that date by the use of procedures and standards employed by the manufacturer in estimating costs and determining prices on that date, except that when any item has been reported on Form 205:1 or 205:2 as permitted by § 1406.4 (c), the maximum price for such item shall be the price reported in column 11 or 10 of such Form, adjusted to reflect differences in cost consequent upon substantial differences, if any, in the quantity sold.

§ 1406.8a *Effective dates of amendments.* (a) Amendment No. 1 (§§ 1406.4 (c), 1406.4 (d), 1406.7 (f), 1406.7 (h), 1406.7 (k), 1406.9 (c) and 1406.8a) to Revised Price Schedule No. 105 shall become effective April 8, 1942.

(Pub. Law 421, 77th Cong.)

Issued this 7th day of April 1942.

LEON HENDERSON,
*Administrator.*

[F. R. Doc. 42-3099; Filed, April 7, 1942; 4:26 p. m.]

## TITLE 35—PANAMA CANAL

### Chapter I—Canal Zone Regulations

PART 4—OPERATION AND NAVIGATION OF PANAMA CANAL AND ADJACENT WATERS

RADIO COMMUNICATION

By virtue of and pursuant to the authority vested in me by Rule 9 of Executive Order No. 4314 of September 25, 1925, establishing rules governing the navigation of the Panama Canal and adjacent waters, and by Rule 172 of the aforementioned Executive Order No. 4314, as amended by Executive Order No. 8715 of March 18, 1941,[1] the following regulations are hereby established governing radio communcation in the Canal Zone so far as concerns or affects vessels in the harbors and other waters of the Canal Zone or the navigation of such waters:

§ 4.143a *Prohibition in harbors, ports, etc.* Radio and signal apparatus (including broadcast receivers), on board all vessels as defined in Title 1, section 3, of the United States Code, domestic and foreign, shall not be used in the harbors, ports, roadsteads, or waters subject to the jurisdiction of the United States, except in accordance with such instructions as may be issued from time to time by naval authority.

§ 4.143b *Sealing of radio.* The radio apparatus, of any vessel as defined in Title 1, section 3, of the United States Code, domestic or foreign, may, while in the harbors, ports, roadsteads or waters subject to the jurisdiction of the United States, be sealed by naval authority, and such seals shall not be broken within the jurisdiction of the United States except when authorized by naval authority.

§ 4.143c *Removal of radio apparatus.* The radio and signal apparatus, of any vessel as defined in Title 1, section 3 of the United States Code, operating under the laws of the United States or of any foreign vessel, owned or operated by a citizen of the United States, may be removed by naval authority where retention on board is deemed prejudicial to the national security and defense and the successful conduct of the war.

§ 4.143d *Exceptions, when granted.* Exceptions to any of the provisions of these regulations, may be made by naval authority in cases where it may be found that the use of radio and signal apparatus will not endanger the national security and defense or the successful conduct of the war.

§ 4.143e *Public vessels exempted.* These regulations have no application to vessels operated by the Navy Department or other departments or agencies of the United States Government. The use of radio by such vessels is regulated by instructions issued by proper authority in each such case.

§ 4.143f *Effectiveness.* These regulations shall take effect immediately and shall continue in effect until the termination of the present conflict, unless sooner modified or revoked by proper authority.

GLEN E. EDGERTON,
*Governor.*

APRIL 1, 1942.

[F. R. Doc. 42-3100; Filed, April 8, 1942; 10:13 a. m.]

## TITLE 43—PUBLIC LANDS: INTERIOR

### Chapter I—General Land Office

[Circular No 1507]

PART 148—EXCHANGES FOR THE CONSOLIDATION OR EXTENSION OF NATIONAL FORESTS

PRELIMINARY NEGOTIATIONS IN PROPOSED EXCHANGES WITH THE STATE OF NEW MEXICO TO ACQUIRE LANDS IN NATIONAL FORESTS

Circular 1295, dated April 1, 1933, containing regulations governing exchanges under the act of June 15, 1926 (44 Stat. 746) amending section 10 of the act of June 20, 1910 (36 Stat. 557, 563), was incorporated in the Code of Federal Regulations as §§ 148.20 to 148.33, inclusive. These regulations are hereby amended by adding to § 148.21 the following:

§ 148.21 *Preliminary negotiations and informal application.* * * *

In cases where the lands desired to be selected by the State are within the boundaries of a grazing district established under the provisions of the act of June 28, 1934, as amended by the act of June 26, 1936 (49 Stat. 1976; 43 U.S.C. 315), the preliminary negotiations relating to a proposed exchange are to be conducted with the local representatives of the Grazing Service as well as with the representatives of the Forest Service, and the State must file with the regional grazier of the district in which the lands desired are situated, an informal application describing the lands to be selected and those to be offered by the State in exchange therefor. When the lands to be selected are outside of grazing districts, the State should file in the General Land Office an informal application describing the lands to be selected and those to be conveyed by the State in exchange. (R.S. 453, 2478; 43 U.S.C. 2, 1201)

FRED W. JOHNSON,
*Commissioner.*

Approved: April 8. 1941.

E. K. BURLEW,
*First Assistant Secretary.*

Approved: March 11, 1942.

GROVER B. HILL,
*Assistant Secretary of Agriculture.*

[F. R. Doc. 42-3108; Filed, April 8, 1942; 10:11 a. m.]

## TITLE 46—SHIPPING

### Chapter I—Bureau of Customs

[T.D. 50598]

Subchapter A—Documentation, Entrance and Clearance of Vessels, etc.

PART 1—DOCUMENTATION OF VESSELS

46 CFR 1.3, 1.71, 1.72, 1.73, 1.76, 1.77, 1.78, 1.80, 1.85, and 1.86 amended to authorize War Shipping Administration to document vessels under the Act of June 6, 1941 (Public Law 101, 77th Congress), as modified by Executive Order No. 9054,[1] dated February 7, 1942.

The last subparagraph of paragraph (c) of § 1.3 is amended to read as follows:

§ 1.3 *Vessels entitled to documents.*

* * * * *

(c) * * *

Class 10: Any vessel (except a vessel constructed under the provisions of the Merchant Marine Act, 1936, as amended), not documented under the laws of the United States, acquired by or made available to the U. S. Maritime Commission under the Act of June 6, 1941, or otherwise, or acquired by or made available to the War Shipping Administration under the Act of June 6, 1941, as modified by Executive Order No. 9054, dated February 7, 1942, or otherwise. (See 46 CFR 1.71). (Sec. 5, 55

[1] 6 F.R. 1531.

[1] 7 F.R. 837.

Stat. 242; E.O. 9054, 9083; 7 F.R. 837, 1609)

* * * * *

Section 1.71 (a) (1) and (2) and (b) (1) is amended to read as follows:

§ 1.71 *Vessels entitled to documents under the act of June 6, 1941.*

(a) * * *

(1) Any vessel (except a vessel constructed under the provisions of the Merchant Marine Act, 1936, as amended), not documented under the laws of the United States, acquired by or made available to the U. S. Maritime Commission under the Act of June 6, 1941, or otherwise, or acquired by or made available to the War Shipping Administration under the Act of June 6, 1941, as modified by Executive Order No. 9054, dated February 7, 1942, or otherwise.

(2) Vessels registered pursuant to this section shall not engage in the coastwise trade unless in possession of a valid unexpired permit to engage in that trade issued by the U. S. Maritime Commission under authority of section 5 (c) of the Act of June 6, 1941, or by the War Shipping Administration under authority of that section as modified by Executive Order No. 9054, dated February 7, 1942.

(b) * * *

(1) Any vessel entitled under the provisions of paragraph (a) of this section to be registered, provided a valid unexpired permit to engage in the coastwise trade, issued by the U. S. Maritime Commission under authority of section 5 (c) of the Act of June 6, 1941, or by the War Shipping Administration under authority of that Act as modified by Executive Order No. 9054, dated February 7, 1942, is filed with the collector of customs to whom application for enrollment and license is made. (Sec. 5, 55 Stat. 242; E.O. 9054, 9083; 7 F.R. 837, 1609)

Section 1.72 (a) is amended to read as follows:

§ 1.72 *Provisional registers under the act of June 6, 1941.* (a) Consular officers of the United States, the Collector of Customs of the Philippine Islands, the Captains of the Ports of Cristobal and Balboa, C. Z., and the Governor of Guam, are authorized to issue provisional certificates of registry to vessels abroad which have been acquired by or made available to the U. S. Maritime Commission under the Act of June 6, 1941, or otherwise, or which have been acquired by or made available to the War Shipping Administration under the Act of June 6, 1941, as modified by Executive Order No. 9054, dated February 7, 1942, or otherwise, (Sec. 5, 55 Stat. 242; E.O. 9054, 9083; 7 F.R. 837, 1609)

Section 1.73 (e) is amended to read as follows:

§ 1.73 *Marine documents under the act of June 6, 1941, classes*

* * * * *

(e) Any enrollment and license issued under the Act of June 6, 1941, shall be valid only so long as the permit issued to the vessel by the U. S. Maritime Commission or the War Shipping Administration remains in force. (Sec. 5, 55 Stat. 242; E.O. 9054, 9083, 7 F.R. 837, 1609)

Section 1.76 (a) (1) (2) and (3) and (c) is amended to read as follows:

§ 1.76 *Application for register under the act of June 6, 1941.* (a) Application for the registry of a vessel under the Act of June 6, 1941, shall be made in duplicate by the U. S. Maritime Commission or by the War Shipping Administration to the collector of customs at any port of documentation at which the Commission or the Administration, respectively, desires to have the document executed. The application shall contain a request that an official number be assigned to the vessel, and that signal letters be awarded if they are desired, and shall state:

(1) That the United States represented by the U. S. Maritime Commission or the United States represented by the War Shipping Administration is the owner of the vessel.

(2) That the vessel is not documented under the laws of the United States.

(3) That it has been acquired by or made available to the Commission under the Act of June 6, 1941, or otherwise, or that it has been acquired by or made available to the Administration under that Act as modified by Executive Order No. 9054, dated February 7, 1942, or otherwise.

* * * * *

(c) Prior to documentation, the approval of the Commissioner of Customs shall be obtained by the U. S. Maritime Commission or the War Shipping Administration for a home port for the vessel, which shall be designated by the Commission or the Administration, respectively. The designation shall be made by the Commission or the Administration in triplicate on Form 1319 and delivered by the Commission or the Administration either to the collector of customs at the home port so designated, or to the collector of customs at the port at which the Commission or the Administration intends to document the vessel, or to the Commissioner of Customs. (Sec. 5, 55 Stat. 242; E.O. 9054, 9083; 7 F.R. 837, 1609)

Section 1.77 (b) is amended to read as follows:

§ 1.77 *Application for enrollment and license of vessel under the act of June 6, 1941.*

* * * * *

(b) In addition to the application required by paragraph (a) of this section, there shall also be filed with the collector at the port at which the document is to issue, a valid unexpired permit, in duplicate, issued by the U. S. Maritime Commission under authority of section 5 (c) of the Act of June 6, 1941, or by the War Shipping Administration under authority of that section as modified by Executive Order No. 9054, dated February 7, 1942, authorizing the vessel to engage in the coastwise trade. (Sec. 5, 55 Stat. 242; E.O. 9054, 9083; 7 F.R. 837, 1609)

Section 1.78 is amended to read as follows:

§ 1.78 *Official number and signal letters of vessels documented under the Act of June 6, 1941.* Upon application by the U. S. Maritime Commission or by the War Shipping Administration in the manner provided by §§ 1.76 and 1.77 of this chapter, official numbers and signal letters will be issued by the Commissioner of Customs to vessels entitled to be documented under the Act of June 6, 1941. Official numbers issued to such vessels will be prefaced by the letters MC. (Sec. 5, 55 Stat. 242; E.O. 9054, 9083; 7 F.R. 837, 1609)

Section 1.80 is amended to read as follows:

§ 1.80 *Home port: change of.* If the U. S. Maritime Commission or the War Shipping Administration desires to change the home port of a vessel documented under the Act of June 6, 1941, after its designation by the Commission or the Administration, respectively, has been approved by the Commissioner of Customs, application should be made for the approval of the new home port designated by the Commission or the Administration in the manner prescribed in § 1.76 (c) of this chapter. (Sec. 5, 55 Stat. 242; E.O. 9054, 9083; 7 F.R. 837, 1609)

§ 1.85 *Renewal of document under the Act of June 6, 1941.* A document granted to any vessel under the Act of June 6, 1941, must be presented to the collector of the district in which the vessel may then be, within three days after its expiration, or, if the vessel be at sea at that time, within three days from her first arrival within a district. Such a document may be renewed by the collector of customs upon request of the master, of the U. S. Maritime Commission, or of the War Shipping Administration if at the time of such request the documentation of the vessel is not prohibited by the Act of June 6, 1941, by any order of the Commissioner of Customs issued under authority of that Act requiring surrender of the vessel's document, or by any provision of the regulations in this part. (Sec. 5, 55 Stat. 242; E.O. 9054, 9083; 7 F.R. 837, 1609)

Section 1.86 (b) is amended to read as follows:

§ 1.86 *Exchange of documents under the act of June 6, 1941.*

* * * * *

(b) Any vessel registered under the Act of June 6, 1941, may be enrolled and licensed for the coasting trade, if a permit in duplicate issued by the U. S. Maritime Commission under section 5 (c) of the Act of June 6, 1941, or by the War Shipping Administration under that section as modified by Executive Order No. 9054, dated February 7, 1942, authorizing the vessel to engage in the coasting trade is filed with the collector of customs. (Sec. 5, 55 Stat. 242; E.O. 9054, 9083; 7 F.R. 837, 1609)

W. R. JOHNSON,
*Commissioner of Customs.*

Approved: March 30, 1942.

HERBERT E. GASTON,
*Acting Secretary of the Treasury.*

[F. R. Doc. 42-3127; Filed, April 8, 1942; 11:56 a. m.]

## *Notices*

### TREASURY DEPARTMENT.

Office of the Secretary.

DELEGATION OF AUTHORITY TO THE SECRETARY OF AGRICULTURE

APRIL 6, 1942.

For the purpose of enabling the Department of Agriculture to carry out the agricultural aspects of the evacuation program for the West Coast military areas and designated zones, there is hereby delegated to and conferred upon the Secretary of Agriculture full authority to exercise any and all powers delegated to the Secretary of the Treasury under section 5 (b) of the Trading with the Enemy Act, as amended by Title III of the First War Powers Act of 1941, with the power to redelegate these powers to such field and other agencies in the Department of Agriculture as the Secretary of Agriculture may from time to time designate.[1] This delegation shall not be construed as a limitation upon my authority to exercise such power and authority at any time or as a limitation upon the authority of the Federal Reserve Bank of San Francisco to exercise the power and authority conferred upon it as Fiscal Agent of the United States.

[SEAL] H. MORGENTHAU, Jr.,
*Secretary of the Treasury.*

[F. R. Doc. 42-3126; Filed, April 8, 1942; 11:57 a. m.]

### WAR DEPARTMENT.

[Public Proclamation No. 5]

HEADQUARTERS WESTERN DEFENSE COMMAND AND FOURTH ARMY, PRESIDIO OF SAN FRANCISCO, CALIFORNIA

EXEMPTION FROM EXCLUSION AND EVACUATION FROM PRESCRIBED MILITARY AREAS AND ZONES

MARCH 30, 1942.

To: The people within the States of Washington, Oregon, California, Montana, Idaho, Nevada, Utah and Arizona, and the Public Generally:

Whereas by Public Proclamation No. 1, dated March 2, 1942,[2] this headquarters, there were designated and established Military Areas Nos. 1 and 2 and Zones thereof, and

Whereas by Public Proclamation No. 2, dated March 16, 1942,[3] this headquarters, there were designated and established Military Areas Nos. 3, 4, 5 and 6 and Zones thereof, and

Whereas the present situation within these Military Areas and Zones requires as a matter of military necessity the establishment of certain regulations, as set forth hereinafter:

Now, Therefore, I, J. L. DeWitt, Lieutenant General, U. S. Army, by virtue of the authority vested in me by the President of the United States and by the Secretary of War and my powers and prerogatives as Commanding General, Western Defense Command, do hereby declare and establish the following regulations covering the conduct to be observed by all alien Japanese, all alien Germans, all alien Italians, and all persons of Japanese ancestry residing or being within the Military Areas above described:

Prior to and during the period of exclusion and evacuation of certain persons or classes of persons from prescribed Military Areas and Zones, persons otherwise subject thereto but who come within one or more of the classes specified in (a), (b), (c), (d), (e) and (f), below, may make written application for exemption from such exclusion and evacuation. Application Form WDC–PM 5 has been prepared for that purpose and copies thereof may be procured from any United States Post Office or United States Employment Service office in the Western Defense Command by persons who deem themselves entitled to exemption.

The following classes of persons are hereby authorized to be exempted from exclusion and evacuation upon the furnishing of satisfactory proof as specified in Form WDC–PM 5:

(a) German and Italian aliens seventy or more years of age. (b) In the case of German and Italian aliens, the parent, wife, husband, child of (or other person who resides in the household and whose support is wholly dependent upon) an officer, enlisted man or commissioned nurse on active duty in the Army of the United States, or any component thereof), U. S. Navy, U. S. Marine Corps, or U. S. Coast Guard.

(c) In the case of German and Italian aliens, the parent, wife, husband, child of (or other person who resides in the household and whose support is wholly dependent upon) an officer, enlisted man or commissioned nurse who on or since December 7, 1941, died in line of duty with the armed services of the United States indicated in the preceding subparagraph.

(d) German and Italian aliens awaiting naturalization who had filed a petition for naturalization and who had paid the filing fee therefor in a court of competent jurisdiction on or before December 7, 1941.

(e) Patients in hospital, or confined elsewhere, and too ill or incapacitated to be removed therefrom without danger to life.

(f) Inmates of orphanages and the totally deaf, dumb or blind.

The applicant for exemption will be required to furnish the kinds of proof specified in Form WDC-PM 5 in support of the application. The certificate of exemption from evacuation will also include exemption from compliance with curfew regulations, subject, however, to such future proclamations or orders in the premises as may from time to time be issued by this headquarters. The person to whom such exemption from evacuation and curfew has been granted shall thereafter be entitled to reside in any portion of any prohibited area, including those areas heretofore declared prohibited by the Attorney General of the United States.

[SEAL] J. L. DEWITT,
*Lieutenant General, U. S. Army, Commanding.*

Confirmed:
J. A. ULIO,
*Major General,*
*The Adjutant General.*

[F. R. Doc. 42-3106; Filed, April 8, 1942; 10:11 a. m.]

### DEPARTMENT OF THE INTERIOR.

Bituminous Coal Division.

[Docket No. 1225-FD]

APPLICATION OF THE CITY OF INDIANAPOLIS FOR EXEMPTION

MEMORANDUM OPINION CONCERNING THE PROPOSED FINDINGS OF FACT, PROPOSED CONCLUSIONS OF LAW AND RECOMMENDATIONS OF THE EXAMINER AND ORDER DISMISSING APPLICATION FOR EXEMPTION

This proceeding was instituted by an application of the City of Indianapolis ("Applicant" or the "City") filed with the Bituminous Coal Division, pursuant to the provisions of section 4–A of the Bituminous Coal Act of 1937 ("the Act"). The application alleged that the coal produced by the Milburn By-Products Coal Company ("Milburn") for the Citizens Gas & Coke Utility[1] ("Gas Utility") operated by the City of Indianapolis, was and is exempt from the provisions of section 4 of said Act by virtue of the provisions of section 4 II (1)[2] thereof, in that such coal was and is produced by the Milburn By-Products Coal Company, a wholly owned and controlled subsidiary of the applicant.

A petition of intervention was filed by District Board 8, and that party was permitted to intervene and participate in the hearing by an Order of the Director, dated August 2, 1940.

Pursuant to an Order of the Director, a hearing in this matter was held before W. A. Cuff, a duly designated Examiner of the Division, in Indianapolis, Indiana. All interested persons were afforded an opportunity to be present, adduce evidence, cross-examine witnesses, and otherwise be heard. Appearances were entered by the Applicant and by District Board 11.

Thereafter, the Examiner made his Report, Proposed Findings of Fact, Proposed Conclusions of Law and Recommendations ("Examiner's Report") dated September 20, 1941, in which it

[1] See Department of Agriculture, *infra*.
[2] 7 F. R. 2320.
[3] 7 F. R. 2405.

[1] Exemption is not sought for the coal produced by Milburn and sold to others than the Gas Utility. About 70 per cent of Milburn's production is sold to the Gas Utility. The remainder is sold on the open market.
[2] Section 4 II (1) of the Bituminous Coal Act of 1937 provides: "The provisions of this section shall not apply to coal consumed by the producer or to coal transported by the producer to himself for consumption by him."

was concluded that the exemption sought by the applicant be denied.[3]

On October 29, 1941, Milburn filed exceptions to the Examiner's Report and, on October 30, 1941, filed a motion requesting oral argument thereon. Pursuant to an Order of the Director, an oral argument was held on November 18, 1941, at which time Milburn appeared and presented to Director Gray oral argument in support of its exceptions. On December 29, 1941, the matter was reargued before the Acting Director.

1. *Examiner's proposed findings and conclusions.* Although finding that the directors and officers of Milburn and the Gas Utility [4] were identical, the Examiner stated that nevertheless Milburn was maintained as a separate corporate entity for all purposes, including property ownership, the execution of a formal contract with the Gas Utility, taxation, contracts with labor unions, purchases of all kinds, the hiring and firing of its employees, the payment of workmen's compensation and related matters, and the maintenance of corporate books and records. The Examiner, therefore, concluded that while the City of Indianapolis, through its Department of Utilities, owned the Milburn By-Products Coal Company, these corporations were separate and distinct entities. In view of the separation of the activities of the Gas Utility and those of Milburn, the Examiner pointed out that the City of Indianapolis did not come within the definition of a "producer" within section 17 (c) of the Act,[5] since it possessed none of the normal attributes of a producer, neither owning the mines nor the equipment necessary for mining.[6] The Examiner concluded that, therefore, the Applicant was not entitled to the exemption sought pursuant to the provisions of section 4 II (1) of the Bituminous Coal Act of 1937, and recommended that the exemption be denied.

2. *Applicant's exceptions to the examiner's report.* Applicant excepted to the Examiner's Report on the ground that it was not sustained by the evidence and was contrary to law. Applicant submits: (1) The corporate veil of Milburn, which in reality is merely an agent of the City of Indianapolis, should be pierced because it is not voluntarily maintained; (2) The absolute control of Milburn lies with the Board of Directors for the Department of Utilities of the City of Indianapolis, a municipal corporation; (3) The denial of the application for exemption would not carry out the purpose of the Bituminous Coal Act of 1937 because that coal which is mined by Milburn and consumed by the City does not find its way into commerce since the coal is used by the City for the manufacture of gas, and is transformed into gas and coke.

(1) The Applicant submits first that the factual situation herein differs in essential particulars from that in the cases cited by the Examiner.[7] In the *Consolidated, Keystone* and *Powell* cases, Applicant contends, the consumers were private corporations which could exercise a choice of either owning and operating the physical properties of the mining companies in their own name or of operating them through wholly-owned subsidiaries. But, it is said, Applicant being a municipal corporation, has no power either under Indiana law or West Virginia law, according to opinion of counsel, to own physical properties in a foreign state, and, therefore, is compelled to operate Milburn as a corporate entity even though it would prefer to own these properties outright.

Applicant's inability to operate a coal mine in a foreign state, except through the medium of a separate corporation, cannot be allowed to affect a decision upon the exemption application. For one, the corporate entity is to be circumvented only with caution and when the circumstances justify it. Cf. *Superior Coal Co.* v. *Department of Finance,* 36 N.E. (2d) 354, 358, 360. Such circumstances are not found where the recognition of the corporate entity is necessary to the legality of the operations being carried on. Moreover, whatever the reason, the stubborn fact is that there is in the situation here an obvious and clear breach in the full consumer-producer identity. To grant an exemption in the light of the circumstances here would be to run counter to the objectives of the Act and hinder the achievement of the congressional purpose.

Often in the law, the form of operation carries with it consequences that could be avoided under some other form. The fact that Applicant is a municipal corporation does not entitle it to specialized treatment as far as the instant application is concerned. Where Congress wanted municipalities to be treated differently than other persons, it so provided. Section 3 (e). In its ownership of Milburn and the use of the coal it produces Applicant functions as any commercial company. The coal is used by the Gas Utility in connection with the manufacture, sale and distribution of artificial gas and of coke. The gas is distributed to residents in or near the City of Indianapolis. The coke is sold in the general market in competition with coke produced by non-municipal companies. In these circumstances, Applicant's right to an exemption must be judged without regard to special considerations.

(2) Applicant contends also that the record indicates that the absolute control and management of Milburn lay in the Board of Directors for the Department of Utilities of the City of Indianapolis.

Section 3 of the 1929 Act of the Indiana General Assembly authorizes the Board of Directors for the Department of Utilities of the City of Indianapolis "to do all things necessary to cause any such coal mining or other company efficiently to carry on its operations and to conduct its business in the same manner as if its stocks were owned by private individuals." It may be that such language was intended merely to confer upon such Board the power to own stock in coal mining companies and thereby to exercise such legal rights as are conferred by the ownership of such stock. Ownership of capital stock in a coal mining corporation by a parent municipal corporation does not make it the "producer" within the meaning of section 17 (c) of the Act. Owning stock in a coal company does not automatically place one in the position of engaging in the "business of mining coal."

In any event, even if section 3 of the 1929 Act authorizes the City to do more and actually operate a mine, it has not exercised such power. The evidence that the directors and officers of Milburn and the Gas Utility are identical is not enough to warrant disregard of the corporate entity. As the Examiner pointed out, the manner of control and direction in the acts done is more important. Here the evidence indicates that the actual operation of the mine is left to the discretion of the General Manager of Milburn, who is not connected with the Gas Utility, enjoying virtual independence with respect to such matters as the means of extracting coal, hiring and firing of employees, the operation of the supplies store, renting of miners' houses and operation of the theatre, being subject merely to general supervision from the Assistant to the President, whose experience in supervision has been in the gas, and not the coal industry. Indeed, the City of Indianapolis cannot claim to be a producer within the meaning of sec-

---

[3] This conclusion was reached prior to the Supreme Court's decision in Gray v. Powell, 62 S. Ct. 326 (December 15, 1941) in which the Court said with respect to the Director's conclusion to deny an application for exemption when it was found that the applicant was not a "producer" that "Better practice might have suggested a dismissal * * *." At p. 329.

[4] The Examiner had found that the Gas Utility was a public charitable trust engaged in the business of the manufacture, sale and distribution of artificial gas in or near the City of Indianapolis. However, the evidence indicated, and in its oral argument applicant pointed out, that the Citizens Gas & Coke Utility is a registered trade name by and through which the City of Indianapolis, as successor trustee, by and through its Department of Utilities, engages in the manufacture, sale and distribution of artificial gas to the gas users of the City of Indianapolis who are the beneficiaries of the public charitable trust. It is, therefore, perhaps more proper to state that the directors and officers of Milburn are identical with those of the Department of Utilities, not the Gas Utility, although the witnesses at the hearing constantly spoke of them as directors and officers of said Gas Utility.

[5] Section 17 (c) defines a "producer" as one "engaged in the business of mining coal."

[6] Cf. In the matter of Clearfield Bituminous Coal Corporation, Docket No. 599-FD.

[7] *Consolidated Indiana Coal Company* v. *National Bituminous Coal Commission,* 103 Fed. (2d) 124 (1939); *Keystone Mining Company* v. *Gray,* 120 F (2d) 1, (C.C.A. 3, April 22, 1941); *Gray* et al., v. *Powell* et al., 114 F. (2d) 752 (C.C.A. 4, Sept. 26, 1940), Cert. granted, 61 S. Ct. 442 (Jan. 6, 1941); decision aff'd by evenly divided court, 61 S. Ct. 824 (March 31, 1941); affirmance vacated, 61 S. Ct. 938 (April 28, 1941). Following the issuance of the Examiner's Report but prior to the reargument, the Supreme Court reversed the decisions of the Court of Appeals, 62 S. Ct. 326 (December 15, 1941).

tion 17 (c) when it possesses none of the appliances of production, owning neither the mines nor the equipment necessary for mining. The exemption under section 4 II (1) is available where the "full consumer-producer identity" is complete. Where it is not complete, consideration must be given to all the facts in order "to determine upon which side of the median line" the case falls. Cf. *Gray* v. *Powell*, 62 S. Ct. 326, 333. A careful study of the record convinces me and I find that Applicant's relations to the operations of Milburn are not such as to warrant the conclusion that Applicant is a "producer" within the meaning of the Act.

(3) Applicant contends further that the denial of its application for exemption would not effectuate the purposes of the Act because none of the coal which is mined by Milburn and consumed by the Gas Utility finds its way into a competitive market. This contention is seemingly premised, in part at least, upon the claim that the transactions between Milburn and the Gas Utility do not (a) constitute "commerce" and (b) constitute transactions in "interstate commerce."[8]

The suggestion that the transfer of the coal from Milburn to the Gas Utility does not constitute "commerce" is premised upon the assumption that the two corporations are in fact one. Having already decided that Milburn and Applicant must be regarded as two separate entities, it is hardly necessary to pursue this argument further. The transactions do involve commerce. See *Northwestern Improvement Company* v. *Ickes*, 111 Fed. (2d) 221, 223–4, (1940); *Gray* v. *Powell*, 62 S. Ct. 326, 334–5.

Under the most elementary tests of interstate commerce, the transactions in coal here involved clearly fall within it. The coal is mined in West Virginia and shipped by rail across state lines to Indianapolis, Indiana. The coal as well as the by-products manufactured from it are sold in competition with products produced both within and without the state. This is sufficient to demonstrate that the coal does move in interstate commerce and certainly directly affects it. See *Currin* v. *Wallace*, 306 U. S. 1; *United States* v. *Wrightwood Dairy Co.* 62 S. Ct. 523; *Sunshine Anthracite Coal Co.* v. *Adkins*, 310 U. S. 381.[9]

That the granting of the application for exemption here would not be in furtherance of the objectives of the Act can easily be demonstrated. If the coal produced by Milburn and sold to the Gas Utility were exempted from the requirements of the Act, it would enjoy a competitive advantage over the coal produced by others. That Congress sought to free interstate commerce in coal from destructive competition is clear. The coal which the Gas Utility obtains from Milburn satisfied only a part of the Gas Utility's coal requirements. The Gas Utility also purchases about 300,000 tons of low volatile coal annually from non-affiliated producers. This coal is mixed with the Milburn coal for the purpose of manufacturing gas and coke. In these circumstances it cannot be said that the granting of the request for exemption would not defeat the objectives of the Act.

A final word should be said concerning Applicant's reliance upon the decision of the Seventh Circuit Court of Appeals in *Consolidated Indiana Coal Company* v. *National Bituminous Coal Commission*, 103 F. (2d) 124 (1939). The holding in that case was that coal produced by a wholly-owned and controlled subsidiary was "produced" by a parent railroad company which consumed it because the subsidiary was under the "complete control, supervision and dominion" of the railroad. Even under the very holding of that case Applicant can find little support for its position, for here there is a complete absence of the very control, supervision and dominion of the operations of Milburn by Applicant. Cf. *Northwestern Improvement Co.* v. *Ickes*, 111 F. (2d) 221 (1940). Furthermore, I am firmly of the conclusion from a study of the record facts here that there does not exist here such a consumer-producer identity as to warrant the granting of the requested exemption.

If there be any doubt as to the propriety of the decision here, the legislative history makes it conclusive. Prior to the final passage of the 1937 Act, a provision was proposed—indeed, passed by the Senate—which provided for the exemption of coal produced by a subsidiary or affiliated company. 81 Cong. Rec. 3136. But this amendment was eliminated by the Conference Committee. H. Rep. 578, 75th Cong., 1st Sess. pp. 1, 8 (1937). Thus it is clear that section 4 II (1) was not intended to exempt coal produced by corporations affiliated with the consuming company. Section 4 II (1) by its very terms applies only to that situation where the same person is both producer and consumer. That case is not presented here. Cf. *Keystone Mining Co.* v. *Gray*, 120 F. (2d) 1.

Having concluded that the Applicant is not the producer of the coal produced by Milburn, it follows that its request for exemption must be dismissed.

*Now, therefore, it is ordered*, That the exceptions of the City of Indianapolis to the Proposed Findings of Fact and Proposed Conclusions of Law and Recommendations of the Examiner be, and they are hereby, overruled; and

*It is further ordered*, That the Proposed Findings of Fact and Proposed Conclusions of Law of the Examiner, as modified herein, be, and they hereby are, approved and adopted as the Findings of Fact and Conclusions of Law[10] of the undersigned; and

*It is further ordered*, That effective fifteen (15) days from the date of this Order, the application of the City of Indianapolis herein be, and it hereby is, dismissed.

Dated: April 7, 1942.

[SEAL] DAN H. WHEELER,
*Acting Director.*

[F. R. Doc. 42-3107; Filed, April 8, 1942; 10:45 a. m.]

---

## DEPARTMENT OF AGRICULTURE.

### Office of the Secretary.

### DELEGATING TO FARM SECURITY ADMINISTRATION POWERS UNDER SECTION 5 (b) OF THE TRADING WITH THE ENEMY ACT, AS AMENDED BY TITLE III OF THE FIRST WAR POWERS ACT OF 1941

For the purpose of enabling the Department of Agriculture to carry out the agricultural aspects of the evacuation program for the West Coast Military areas and designated zones, the authority delegated to me by the Secretary of the Treasury by memorandum dated April 6, 1942,[1] under section 5 (b) of the Trading With The Enemy Act, as amended by Title III of the First War Powers Act of 1941, is hereby vested in the Farm Security Administration, to be exercised under the supervision and direction of the Administrator of that Administration by such officers of that Administration as he may from time to time designate. This delegation shall not be construed as a limitation upon my authority to exercise such power and authority at any time or to make further delegations of authority to other agencies of the Department.

[SEAL] CLAUDE R. WICKARD,
*Secretary of Agriculture.*

APRIL 7, 1942

[F. R. Doc. 42-3123; Filed, April 8, 1942; 11:08 a. m.]

---

### PROCLAMATION WITH RESPECT TO THE BASE PERIOD TO BE USED FOR THE PURPOSE OF THE AMENDED MARKETING AGREEMENT AND THE ORDER, AS AMENDED, REGULATING THE HANDLING OF FRESH PEAS AND CAULIFLOWER GROWN IN THE COUNTIES OF ALAMOSA, RIO GRANDE, CONEJOS, COSTILLA, AND SAGUACHE IN THE STATE OF COLORADO

Pursuant to the provisions of Public Act No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937 (50 Stat. 246 (1937), 7 U.S.C. 1940 ed. § 601 *et seq.*), as amended, the under-

[8] In its Exceptions and Proposed Findings, Applicant speaks of the coal not finding its way "into commerce." But at the oral argument counsel directed his attention to its effect upon "interstate commerce." I have determined to dispose of both.

[9] It is to be noted that in the "costs" which costs furnish the base for determining the the price charged by Milburn to the Gas Utility for the coal includes, among other items, a management fee of 7% of the sale price of coals sold by Milburn to purchasers other than the Gas Utility. In the Report of the Examiner, it is erroneously stated that the 7% management fee applies to the sale price of coal purchased by the Gas Utility rather than on coal purchased by others than the Gas Utility.

[10] The Examiner concluded that the application should be denied. However, since applicant is found not to be a producer, it is more appropriate to dismiss the petition. Cf. *Gray* v. *Powell*, 62 S. Ct. 326, 329.

[1] See Treasury Department, *supra*.

signed hereby finds and proclaims that, with respect to fresh peas and cauliflower, respectively, grown in the counties of Alamosa, Rio Grande, Conejos, Costilla, and Saguache in the State of Colorado, the purchasing power of such fresh peas and cauliflower, respectively, during the pre-war base period, August 1909–July 1914, cannot be satisfactorily determined from available statistics of the Department of Agriculture, for the purpose of the execution of the amended marketing agreement and the issuance of the order, as amended, regulating the handling of fresh peas and cauliflower grown in the counties of Alamosa, Rio Grande, Conejos, Costilla, and Saguache in the State of Colorado, but that the purchasing power of such fresh peas can be satisfactorily determined from available statistics of the Department of Agriculture for the post-war base period 1922–28, and that the purchasing power of such cauliflower can be satisfactorily determined from the available statistics of the Department of Agriculture for the post-war base period 1923–28. The post-war period 1922–28 is hereby declared and proclaimed to be the base period to be used in determining the purchasing power of such peas grown in the counties of Alamosa, Rio Grande, Conejos, Costilla, and Saguache in the State of Colorado, for the purpose of the execution of the amended marketing agreement and the issuance of the order, as amended, regulating the handling of fresh peas and cauliflower grown in said counties in Colorado. The post-war period 1923–28 is hereby declared and proclaimed to be the base period to be used in determining the purchasing power of such cauliflower grown in the counties of Alamosa, Rio Grande, Conejos, Costilla, and Saguache in the State of Colorado, for the purpose of the execution of the amended marketing agreement and the issuance of the order, as amended, regulating the handling of fresh peas and cauliflower grown in said counties in the State of Colorado.

Issued at Washington, D. C., this 7th day of April 1942. Witness my hand and the seal of the Department of Agriculture.

[SEAL] CLAUDE R. WICKARD,
*Secretary of Agriculture.*

[F. R. Doc. 42-3111; Filed, April 8, 1942; 11:08 a. m.]

---

## DEPARTMENT OF LABOR.

### Wage and Hour Division.

[Administrative Order No. 147]

APPOINTMENT OF INDUSTRY COMMITTEE NO. 44 FOR THE RAILROAD CARRIER INDUSTRY

1. By virtue of and pursuant to the authority vested in me by the Fair Labor Standards Act of 1938, I, L. Metcalfe Walling, Administrator of the Wage and Hour Division, U. S. Department of Labor, do hereby appoint and convene for the Railroad Carrier Industry (as such industry is defined in paragraph 2) an industry committee composed of the following representatives:

*For the public:* George E. Osborne, Chairman, Palo Alto, California; Charles S. Johnson, Nashville, Tennessee; William Homer Spencer, Chicago, Illinois; Arthur D. Hill, Sr., Boston, Massachusetts.

*For the employees:* George Wright, Chicago, Illinois; T. C. Carroll, Jacksonville, Florida; H. A. Bacus, Cincinnati, Ohio; George E. Brown, New York, New York.

*For the employers:* H. E. Jones, New York, New York; Edward Murrin, Chicago, Illinois; J. H. Huntt, Washington, D. C.; A. J. Bier, Washington, D. C.

Such representatives having been appointed with due regard to the geographical regions in which such industry is carried on.

2. For the purpose of this order, the term "Railroad Carrier Industry" means:

The industry carried on by any express company, sleeping car company or carrier by railroad, subject to Part I of the Interstate Commerce Act, and by any company which is directly or indirectly owned or controlled by one or more such carriers or under common control therewith, and which operates any equipment or facility or performs any service (except trucking service, casual service and the casual operation of equipment or facilities) in connection with the transportation of passengers or property by railroad, or the receipt, delivery, elevation, transfer in transit, refrigeration or icing, storage, or handling of property transported by railroad, and by any receiver, trustee, or other individual or body, judicial or otherwise, when in the possession of the property or operating all or any part of the business of any such company or carrier by railroad: *Provided, however,* That the term "railroad carrier industry" shall not include the industry carried on by any street, interurban, or suburban electric railway, unless such railway is operating as a part of a general steam-railroad system of transportation, but shall not exclude any part of the general steam-railroad system of transportation now or hereafter operated by any other motive power.

3. The industry committee herein created shall report at 10:00 A. M. on April 28, 1942 in the Office of the Administrator of the Wage and Hour Division, located at 165 West 46th Street, New York, New York, and, in accordance with the provisions of the Fair Labor Standards Act of 1938 and rules and regulations promulgated thereunder, shall proceed to investigate conditions in the industry and recommend to the Administrator minimum wage rates for all employees thereof who within the meaning of said Act are "engaged in commerce or in the production of goods for commerce," excepting employees exempted by virtue of the provisions of section 13 (a) and employees coming under the provisions of section 14.

Signed at Washington, D. C., this 4th day of April, 1942.

L. METCALFE WALLING,
*Administrator.*

[F. R. Doc. 42-3101; Filed, April 8, 1942; 10:13 a. m.]

NOTICE OF ISSUANCE OF SPECIAL CERTIFICATES FOR THE EMPLOYMENT OF LEARNERS UNDER THE FAIR LABOR STANDARDS ACT OF 1938

Notice is hereby given that Special Certificates authorizing the employment of learners at hourly wages lower than the minimum rate applicable under section 6 of the Act are issued under section 14 thereof and § 522.5 (b) of the Regulations issued thereunder (August 16, 1940, 5 F. R. 2862) to the employers listed below effective April 9, 1942.

The employment of learners under these Certificates is limited to the terms and conditions as designated opposite the employer's name. These Certificates are issued upon the employers' representations that experienced workers for the learner occupations are not available for employment and that they are actually in need of learners at subminimum rates in order to prevent curtailment of opportunities for employment. The Certificates may be cancelled in the manner provided for in the Regulations and as indicated on the Certificate. Any person aggrieved by the issuance of these Certificates may seek a review or reconsideration thereof.

NAME AND ADDRESS OF FIRM, PRODUCT, NUMBER OF LEARNERS, LEARNING PERIOD, LEARNER WAGE, LEARNER OCCUPATIONS, EXPIRATION DATE

Puerto Rico Diamond Works of San Juan, Puerto Rico to employ four (4) learners in the operation known as Scouring, at the rate of 22½¢ an hour for a learning period of 960 hours. This certificate effective March 16, 1942 and shall remain in effect for a period not exceeding six months thereafter.

The New England Guild, 252 Spring Street, Portland, Maine; Mfg. "B" grade Hooked Rugs; 3 learners; 6 weeks for any one learner; 30 cents per hour; Rug Hooking Machine Operator; June 4, 1942.

Signed at New York, N. Y., this 7th day of April 1942.

PAULINE C. GILBERT,
*Authorized Representative of the Administrator.*

[F. R. Doc. 42-3102; Filed, April 8, 1942; 10:14 a. m.]

---

NOTICE OF ISSUANCE OF SPECIAL CERTIFICATES FOR THE EMPLOYMENT OF LEARNERS UNDER THE FAIR LABOR STANDARDS ACT OF 1938

Notice is hereby given that Special Certificates authorizing the employment of learners at hourly wages lower than the minimum wage rate applicable under section 6 of the Act are issued under section 14 thereof, Part 522 of the Regulations issued thereunder (August 16, 1940, 5 F.R. 2862) and the Determination and Order or Regulation listed below and published in the FEDERAL REGISTER as here stated.

Apparel Learner Regulations, September 7, 1940 (5 F.R. 3591).

Men's Single Pants, Shirts and Allied Garments and Women's Apparel Industries, September 23, 1941 (6 F.R. 4839).

Artificial Flowers and Feathers Learner Regulations, October 24, 1940 (5 F.R. 4203).

Glove Findings and Determination of February 20, 1940, as amended by Administrative Order of September 20, 1940 (5 F.R. 3748).

Hosiery Learner Regulations, September 4, 1940 (5 F.R. 3530).

Independent Telephone Learner Regulations, September 27, 1940 (5 F.R. 3829).

Knitted Wear Learner Regulations, October 10, 1940 (5 F.R. 3982).

Millinery Learner Regulations, Custom Made and Popular Priced, August 29, 1940 (5 F.R. 3392, 3393).

Textile Learner Regulations, May 16, 1941 (6 F.R. 2446).

Woolen Learner Regulations, October 30, 1940 (5 F.R. 4302).

Notice of Amended Order for the Employment of Learners in the Cigar Manufacturing Industry, July 29, 1941 (6 F.R. 3753).

The employment of learners under these Certificates is limited to the terms and conditions as to the occupations, learning periods, minimum wage rates, et cetera, specified in the Determination and Order or Regulation for the industry designated above and indicated opposite the employer's name. These Certificates become effective April 9, 1942. The Certificates may be cancelled in the manner provided in the Regulations and as indicated in the Certificates. Any person aggrieved by the issuance of any of these Certificates may seek a review or reconsideration thereof.

NAME AND ADDRESS OF FIRM, INDUSTRY, PRODUCT, NUMBER OF LEARNERS AND EXPIRATION DATE

*Apparel*

Derby Underwear Co., Inc., Church Street, Bowling Green, Kentucky; Men's Woven Underwear; 5 percent (T); April 9, 1943.

*Single Pants, Shirts, and Allied Garments and Women's Apparel Industries*

Ashley Dress Company, 697 Hazle Street, Ashley, Pennsylvania; Dresses; 10 learners (T); April 9, 1943.

Brookfield-Garrison Mfg. Co., Warrensburg, Missouri; Pants, Shirts, Coveralls, Army Jackets, One Piece Suits; 10 percent (T); April 9, 1943.

Samuel Elman Co., Inc., 1050 W. Genesee Street, Syracuse, New York; Men's Trousers & Field Jackets; 10 percent (T); April 9, 1943.

Great Lakes Garment Company, North Main St., Cheboygan, Michigan; Coveralls, Jackets, Dresses; 10 percent (T); April 9, 1943.

Hudson Pants Company, 215–217 Custer Avenue, Jersey City, New Jersey; Boy's & Men's Pants; 10 learners (T); April 9, 1943.

Sunrise Rayon Undergarment Company, 596 Broadway, New York, N. Y.; Rayon Underwear; 5 learners (T); October 9, 1942.

U. P. Dress Mfg. Company, 119 Baraga Avenue, Marquette, Michigan; Women's Cotton Dresses; 10 learners (T); April 9, 1943.

*Hosiery*

Kiser Hosiery Mill, Highway 70 East Hickory, Hickory, North Carolina; Seamless Hosiery; 3 learners (T); April 9, 1943.

*Knitted Wear*

The Rivoli Mills, 2300 East 28th St., Chattanooga, Tennessee; Knitted Underwear, Polo Shirts, Sweaters; 5 learners (T); April 9, 1943.

Utica Knitting Company, Mill No. 3, Oriskany Falls, New York; Knitted Underwear; 10 learners (E); October 6, 1942.

*Textile*

Luzerne Throwing Company, Inc., First & Sharpe Streets, Wyoming, Pennsylvania; Rayon & Silk; 25 learners (T); October 9, 1942.

Signed at New York, N. Y., this 7th day of April 1942.

PAULINE C. GILBERT,
*Authorized Representative of the Administrator.*

[F. R. Doc. 42-3103; Filed, April 8, 1942; 10:14 a. m.]

## FEDERAL POWER COMMISSION.

[Docket No. IT-5774]

IN THE MATTER OF THE EASTERN SHORE PUBLIC SERVICE COMPANY OF MARYLAND, THE DELMARVA POWER COMPANY, AND EASTERN SHORE PUBLIC SERVICE COMPANY

NOTICE OF APPLICATION

APRIL 6, 1942.

Notice is hereby given that on April 6, 1942, a joint application was filed with the Federal Power Commission, pursuant to the Federal Power Act, by The Eastern Shore Public Service Company of Maryland and The Delmarva Power Company, corporations organized under the laws of the State of Maryland, and Eastern Shore Public Service Company, a corporation organized under the laws of the State of Delaware, with their principal business offices at Salisbury, Maryland, seeking an order authorizing the acquisition of all the assets and the assumption of all current obligations of The Delmarva Power Company by The Eastern Shore Public Service Company of Maryland; or in the alternative an order dismissing the application for lack of jurisdiction, or a ruling that it is not necessary for the applicants to obtain authorization from this Commission for the consummation of the transaction hereinbefore set forth; all as more fully appears in the application on file with this Commission.

Any person desiring to be heard or to make any protest in reference to said application should, on or before the 24th day of April 1942, file with the Federal Power Commission a petition or protest in accordance with the Commission's Rules of Practice and Regulations.

[SEAL] LEON M. FUQUAY,
*Secretary.*

[F. R. Doc. 42-3105; Filed, April 8, 1942; 10:12 a. m.]

[Docket Nos. G-223, G-224, and G-225]

IN THE MATTERS OF NEW YORK STATE NATURAL GAS CORPORATION AND KEUKA CONSTRUCTION CORPORATION

ORDER CONTINUING DATE FIXED FOR RESUMPTION OF HEARINGS

APRIL 7, 1942.

It appearing to the Commission that:

(a) Hearings in these proceedings are scheduled to resume at Pittsburgh, Pennsylvania, on April 8, 1942;

(b) Counsel for the Commission have requested that the date fixed for the resumption of such hearings be continued to April 20, 1942;

(c) Good cause has been shown for such continuance;

The Commission *orders* that: The hearings in these proceedings now scheduled to resume at Pittsburgh, Pennsylvania, at 10 o'clock a. m., (E. W. T.), on April 8, 1942, be and they are hereby continued to April 20, 1942, at the same hour and place.

By the Commission.

[SEAL] LEON M. FUQUAY,
*Secretary.*

[F. R. Doc. 42-3104; Filed, April 8, 1942; 10:12 a. m.]

## FEDERAL TRADE COMMISSION.

[Docket No. 4656]

IN THE MATTER OF EUGENE RUSSELL JAFFE ALIAS E. J. RUSSELL, AN INDIVIDUAL TRADING AS STERLING SALES COMPANY AND CRAFTSMAN SALES COMPANY

ORDER APPOINTING TRIAL EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 6th day of April, A. D. 1942.

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U.S.C.A., section 41),

*It is ordered*, That John W. Addison, a trial examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive

evidence in this proceeding and to perform all other duties authorized by law;

*It is further ordered,* That the taking of testimony in this proceeding begin on Wednesday, May 6, 1942, at ten o'clock in the forenoon of that day (central standard time) in Room 1123, New Post Office Building, 433 West Van Buren Street, Chicago, Illinois.

Upon completion of testimony for the Federal Trade Commission, the trial examiner is directed to proceed promptly to take testimony and evidence on behalf of the respondent. The trial examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] OTIS B. JOHNSON,
*Secretary.*

[F. R. Doc. 42-3120; Filed, April 8, 1942; 11:42 a. m.]

[Docket No. 4723]

IN THE MATTER OF MRS. ANN B. GOLDSTEIN, INDIVIDUALLY AND TRADING AS CHAMPION SPECIALTY COMPANY

ORDER APPOINTING TRIAL EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 6th day of April, A. D. 1942.

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U.S.C.A., section 41),

*It is ordered,* That John W. Addison, a trial examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

*It is further ordered,* That the taking of testimony in this proceeding begin on Wednesday, May 20, 1942, at ten o'clock in the forenoon of that day (central standard time) in Court Room 664, United States Court House, Kansas City, Missouri.

Upon completion of testimony for the Federal Trade Commission, the trial examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The trial examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] OTIS B. JOHNSON,
*Secretary.*

[F. R. Doc. 42-3121; Filed, April 8, 1942; 11:42 a. m.]